

**BOARD OF TRUSTEES OF THE
ELBURN & COUNTRYSIDE FIREFIGHTERS' PENSION FUND**

RULES

**ELBURN & COUNTRYSIDE FIRE PROTECTION DISTRICT
KANE COUNTY, ILLINOIS**

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Application for Retirement Benefits – Former Employee

**RULES OF THE BOARD OF TRUSTEES OF
THE ELBURN & COUNTRYSIDE FIREFIGHTERS' PENSION FUND**

CHAPTER I - BOARD OF TRUSTEES

1.01 Membership of the Board

The Board of Trustees of the Elburn & Countryside Firefighters' Pension Fund (the "Board") shall consist of the following eight (8) members: the president, the treasurer and one other member of the Board of Trustees of the Elburn & Countryside Fire Protection District (the "District"); the Fire Chief; three (3) active firefighters of the Elburn & Countryside Fire Protection District; and one other person who has retired under the Firemen's Pension Fund Act of 1919 (former Ill.Rev.Stat. ch. 24, par. 918 *et seq.*) or Article 4 of the Illinois Pension Code (40 ILCS 5/4-101 *et seq.*). After April 17, 2006, the Board of Trustees of the Elburn & Countryside Firefighters' Pension Fund ("the Board") shall consist of the following five (5) members: two members appointed by the President of Elburn & Countryside Fire Protection District's Board of Trustees; two (2) active firefighters of the Elburn & Countryside Fire Protection District (the "District"); and one (1) person who has retired under the Firemen's Pension Act of 1919 (former Ill.Rev.Stat. ch. 24 par. 918 *et seq.*) or Article 4 of the Illinois Pension Code (40 ILCS 5/4-101 *et seq.*) A firefighter receiving a disability pension shall be considered a retired firefighter for purposes of membership on the Board of Trustees. In the event that there are no retired firefighters under the Fund or if none is willing to serve on the Board, then an additional active firefighter shall be elected to the Board in lieu of the retired firefighter who would otherwise be elected. (40 ILCS 5/4-121)

1.02 Election of Board Members

The members of the Board chosen from the active and retired firefighters shall be elected by ballot at elections to be held on the third Monday in April of the applicable years under the Australian ballot system. No person shall cast more than one vote for each candidate for whom he or she is eligible to vote.

The Board shall accept written nominations for candidates prior to the election in the applicable years. Candidates for the positions of active firefighters may be nominated by active firefighters. Candidates for the position of retired firefighter may be nominated by retired firefighters. In the elections for Board members to be chosen from the active firefighters, only active firefighters may vote. In the elections for Board members to be chosen from retired firefighters, only retired firefighters may vote. In the event there are no retired members or none are willing to serve, another Board member shall be elected from among the active firefighters. In this instance active members may vote for the substitute retired member. If no retired firefighters are serving on the Board and a newly retired firefighter becomes available and is willing to serve on the Board, the next active firefighter seat that becomes available for election shall be returned to a retired member seat for election by retired firefighters.

The Board shall meet and canvass the ballots and declare which persons have been elected and for what term or terms respectively. In case of a tie vote between two or more candidates, the Board shall determine by lot which candidate or candidates have been elected and for what term or terms respectively. The results of the election shall be posted at each fire station. (40 ILCS 5/4-121)

1.03 Term of Office

Each elected and appointed member of the Board shall hold office for a term of three (3) years and until his or her successor has been duly elected or appointed, and qualified. For purposes of the first five-member Board elected and appointed in April of 2006, the terms of the offices shall be staggered. One of the elected members shall serve a one-year term, another elected member shall serve a two-year term, and the third elected member shall serve a three-year term. One of the appointed members shall serve a two-year term, and the other appointed member shall serve a

three-year term. The Board shall determine by lot which term each member of the first five-member Board shall serve. (40 ILCS 5/4-121).

1.04 Vacancies

In the event of the failure, resignation, or inability to act of any Board member, a successor shall be elected for the unexpired term at a special election called by the Board and conducted in the same manner as a regular election. (40 ILCS 5/4-121)

1.05 Officers

A. President and Secretary

A President and Secretary shall be elected annually for a one-year term at the first regular meeting of the Board's fiscal year. All elections shall be conducted in open session of the Board. Candidates for President and Secretary must be nominated, seconded and voted upon individually. A candidate receiving a majority of the votes shall be elected.

If the President or Secretary is unable to complete his or her term, a permanent replacement shall be elected by the Board to complete the term. If the President or Secretary is absent from a meeting or is temporarily incapacitated, *an officer pro tempore* shall be appointed by the Board. (40 ILCS 5/4-121)

B. Treasurer

The Treasurer of the District shall serve as Treasurer of the Board and the custodian of the Pension Fund, and shall secure and safely keep the Fund's assets, subject to the control and direction of the Board. The Treasurer shall keep books and accounts concerning the fund in such manner as may be prescribed by the Board. The books and accounts shall be subject to the inspection of the Board or any member thereof.

Within ten (10) days after his or her appointment, the Treasurer and his or her designee shall execute a bond to the District, with good and sufficient securities, in such penal sums as the Board shall direct, to be approved by the Board, conditioned for the faithful performance of the duties of the office, and for the safekeeping and proper accounting of all monies and property which come to the Treasurer. The bond shall be filed in the office of the Secretary of the Board of Trustees of the District.

On the expiration of the Treasurer's term, all monies and property of the Fund shall be turned over to his or her successor. (40 ILCS 5/4-121 and 4-130)

1.06 Powers and Duties of the Board

The powers and duties of the Board shall generally include, but are not limited to, the following:

- A. To control and manage, exclusively, (1) the Pension Fund; (2) investment expenditures and income, including interest dividends, capital gains, and other distributions on the investments; and (3) all money donated, paid, assessed or provided by law for the pensioning of disabled and retired firefighters, their surviving spouses, minor children and dependent parents.
- B. To assess each firefighter for the contributions required by law, and to have the contributions deducted from salaries, together with all interest accruing thereon, placed by the Treasurer to the credit of the Pension Fund, subject to the order of the Board.

- C. To hear and decide all applications for pensions and other benefits for pensions and other benefits under Article 4 of the Pension Code and to order and direct the payment of pensions and other benefits.
- D. To invest the money of the Pension Fund in accordance with the Pension Code.
- E. To accept by gift, grant, transfer or bequest, any money, real estate or personal property, and to place such money and proceeds from the sale of or income from such real estate or personal property into the Pension Fund.
- F. To make all rules and regulations necessary for the discharge of its duties; to keep a record of all its meetings and proceedings; to provide for the payment from the Fund of all necessary expenses of the Board; and to compel witnesses to attend and testify before it upon all matters connected with the administration of Article 4, in the manner provided by law for the taking of testimony before the circuit court. (40 ILCS 5/4-122, 4-123, 4-123.1, 4-124, 4-125, 4-126, 4-127, 4-128, 4-129, and 4-129.1)

1.07 **Meetings Generally**

A. Regular and Special Meetings

Regular meetings of the Board of Trustees shall be held not less than quarterly pursuant to the schedule adopted by the Board at its first meeting of the fiscal or calendar year. All meetings shall be conducted in accordance with the Open Meetings Act.

Special meetings may be called by the President of the Board or any three (3) members upon at least forty-eight (48) hours notice to all Board members. Such call shall set the time and place of holding the special meeting, the purpose for which it is called, and the names of the person or persons requesting the special meeting. A special meeting may also be called for a future date at any meeting of the Board by a majority vote of the members attending the meeting.

Notice and the agenda of all regular and special meetings shall be provided pursuant to the Open Meetings Act. (5 ILCS 120/1 *et seq.*)

B. Quorum

Five (5) members of the Board shall constitute a quorum to do business. All meetings shall be held only if a quorum of the Board is present. After the first five-member Board is seated on April 17, 2006, three (3) members of the Board shall constitute a quorum to conduct business.

C. Closed Sessions

All meetings of the Board shall be open, unless a motion is made, seconded and carried, to go to closed session pursuant to an exception set forth under the Open Meetings Act. The motion to go to closed session shall set forth the specific exception pursuant to which the closed session will be held. In addition to other exceptions set forth in the Open Meetings Act, the Board may hold a closed session where the sale or purchase of securities or investment contracts is to be considered, or to consider evidence or testimony presented in open hearing, provided that the Board prepared and made available for public inspection a written decision setting forth its determinative reasoning. (5 ILCS 120/2 and 2a)

D. Minutes

1. Generally

The Secretary of the Board shall keep a true and correct copy of all transactions of the Board in regular and special meetings, open or closed, and committee meetings. The minutes shall include the date, time and place of the meeting; the members of the Board as either present or absent; a summary of discussion on all matters proposed, deliberated, or decided; and a record of any votes taken, including the member making the motion, the second and the results of the voting.

The minutes of the proceedings of the Board at regular or special meetings shall be prepared in draft form and copies shall be mailed or delivered to all Board members along with the notice of the meeting. The minutes of the preceding meeting, with any changes made by a motion properly made and carried or as directed by the President without objections, shall be approved by the Board and signed by the Secretary at the next meeting. The official minutes of the Board shall be kept in the Board's files at the District's administrative offices and shall be made available to citizens for inspection during regular business hours at the District's administrative offices within seven (7) days of approval. (5 ILCS 120/2.06)

2. Verbatim Record of Closed Meetings

The Secretary or his or her administrative designee shall audio record all closed meetings. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location.

After eighteen (18) months have passed since being made, the audio recording of a closed meeting shall be destroyed, provided that the Board has approved its destruction and approved written minutes of the particular closed meeting.

Requests for access to a recording of a closed meeting will be denied unless the Board has found that the recording no longer needs confidential treatment. Individual Board members may listen to verbatim recordings when that action is germane to their responsibilities, e.g., in order to check the accuracy of minutes or to determine whether the recordings no longer require confidential treatment. (5 ILCS 120/2.06(c))

3. Semi-Annual Review of Minutes

The Board shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings, a determination shall be made, and reported in open session that the need for confidentiality still exists as to all or part of those minutes or that the minutes or portions thereof no longer require confidential treatment and are available for public inspection.

At no time will an audio recording be released that would violate state or federal privacy or confidentiality requirements, including, but not limited to, any matter concerning (1) an employee's or applicant's personnel file and personal information; (2) communications between the Board and an attorney representing the Board; and (3) all information exempted from disclosure under the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*). (5 ILCS 120/2, 2.02, 2.03, 2.06, and 2a)

1.08 **Rules of Order**

A. **Rule 1. Agenda**

All regular meeting agendas shall generally be prepared pursuant to the following outline:

**Agenda
Regular Meeting of the
Elburn & Countryside Firefighters' Pension Fund
Board of Trustees
(date)**

- I. Call to Order
- II. Roll Call
- III. Public Comment
- IV. Approval of Minutes
- V. Treasurer/Investment Committee Report
- VI. Communications or Reports
- VII. Old Business
- VIII. New Business
- IX. Adjournment

Prior to each regular meeting, the President shall prepare an agenda. Any Board member may place items on the regular meeting agenda by submitting a written request to the President or his or her designee before the close of business on the Friday immediately preceding the regular meeting. Agendas and other information for each regular meeting shall be mailed or delivered to each Board member prior to the meeting.

B. **Rule 2. Presiding Officer**

The President of the Board shall serve as presiding officer at all meetings. If the President is absent, the members present at the meeting shall elect a President *pro tempore* who shall act in the President's stead. The President may call on any member to perform the duties of presiding officer during any meeting. A *pro tempore* appointment shall not extend beyond the adjournment of the particular meeting.

The President shall preserve order and decorum, may speak to points of order in preference to other members, vote on all issues before the Board of Trustees, and shall decide all questions of order subject to an appeal of any three (3) members.

C. **Rule 3. Voting**

The ayes and nays shall be taken upon the passage of all resolutions, all propositions to create any liability against the Fund, for the expenditure or appropriation of its money, on the question of granting or denying a disability pension, and in all other cases at the request of any member. All aye/nay votes shall be taken in the following order: the motioner shall vote first, the seconder second, and the remaining members in alphabetical order. All ayes and nays taken shall be recorded in the meeting's minutes. A concurrence of a majority of all members present at a meeting shall be necessary to the passage of any such proposition unless otherwise provided by law.

D. **Rule 4. Questions Before the Board**

Every question before the Board of Trustees shall be distinctly stated by the President before it is open for debate. A motion shall be reduced to writing before a vote if so

requested by any member. Members discussing a question shall address the President, and no member shall be deemed to have the floor until recognized by the President. If any question under consideration contains several distinct propositions, the Board may, by a majority of the members present, divide such questions.

E. Rule 5. Resolutions

All resolutions, as well as amendments thereto, shall be reduced to writing before action shall be taken on them. The title of resolutions shall be read aloud before a vote is taken, except when any member present requests that it be read in its entirety.

F. Rule 6. Addressing the Board

Except during the public comment portion of the regular Board agenda, or as stated in this rule, no person other than the Board's attorney or members of the Fund may address the Board of Trustees.

A portion of every regular Board of Trustees meeting shall be provided for public comment. The person wishing to speak shall raise his or her hand in a signal to the President. The speaker must be designated and authorized to speak by the President. Each speaker shall limit his or her public participation to a period of three (3) minutes or less so that all persons shall have an adequate opportunity to make their statements to the Board.

The purpose of public participation is to allow the public the opportunity to make a statement to the Board of Trustees. The purpose of public participation is not to provoke a debate with the Board. Once an individual has spoken, that individual may not speak on the same issue again. Any limitation regarding addressing the Board may be waived by a majority vote of the Board of Trustees.

G. Rule 7. Temporary Suspension of Rules

These rules may be temporarily suspended by an affirmative vote of five (5) Board members. After the first five-member Board is seated on April 17, 2006, these rules may be temporarily suspended by an affirmative vote of three (3) Board members.

1.09 Board Member Ethics

Each Trustee shall agree that as a member of the Board of Trustees, he or she shall do his or her utmost to represent the Fund by adhering to the following commitments:

- A.** He or she will represent the Fund members honestly and equally and refuse to surrender his or her responsibilities to special interest or partisan political groups.
- B.** He or she will avoid any conflict of interest or any appearance of impropriety which could result from his or her position and shall not use his or her Board membership for personal gain or publicity.
- C.** He or she will recognize that a Board member has no legal authority as an individual and that decisions can be made only by a majority vote at a Board of Trustees meeting.
- D.** He or she will take no private action that might compromise the Board or administration of the Fund and will respect the confidentiality of privileged information.
- E.** He or she will abide by majority decisions of the Board while retaining the right to seek changes through ethical and constructive channels.

- F. He or she will encourage and respect the free expression of opinion of fellow Board members and others who seek to be heard before the Board of Trustees.
- G. He or she shall faithfully and diligently perform the duties of Board of Trustees, including attendance at all Board of Trustees meetings and other functions where Board of Trustees attendance is required.
- H. He or she shall not intentionally solicit or accept any gift from any prohibited source as prescribed in Article 10 of the State Officials and Employees Ethics Act. However, Board members may accept gifts from prohibited sources under the limited exceptions set forth in Section 10-15 of the Act, except for educational missions and travel expenses. If the District adopts or maintains a more restrictive policy on the acceptance of gifts, the Board members shall adhere to the District's policy. (5 ILCS 430/10-10 and 10-15; 40 ILCS 5/1-125)

1.10 Authority of Members

The Board may act only in a properly convened meeting, and no member shall have the authority to act for the Board or under the title of his or her Board position unless specifically authorized by statute or by the Board. Any act delegated to a member by the Board must be ratified by the Board.

1.11 Written Communications

Written communications to the Board may be submitted to any member of the Board at any time. Such communications shall be brought to the attention of the members of the Board at their next meeting and will be acknowledged in the minutes as having been received. A copy of all written communications made on behalf of the Board shall be provided to each member.

1.12 Committees

The President may appoint ad hoc committees to study and evaluate specific issues and to report their recommendations to the Board. No committee recommendations shall be implemented without approval by the Board.

1.13 Tax Levy and Audit Report

A. Determination of Tax Levy

The Board shall report to the Board of Trustees of the Elburn & Countryside Fire Protection District (the "District") on the condition of the pension fund as requested by the District, prior to October 1 of each year, using the Board's Annual Tax Levy Report Form (see **Form 1**). The Board shall provide this report prior to the District's Board meeting held for appropriating and levying taxes for the year in which the report is made. The Board in the report shall certify:

1. The total assets of the fund and their current market value;
2. The estimated receipts during the next succeeding fiscal year from deductions from the salaries or wages of firefighters, and from all other sources;
3. The total net income estimated received from investment of assets along with the assumed investment return and actual investment return received by the Fund during its most recently completed fiscal year, compared to the total net income, assumed investment return and actual investment return received during the preceding fiscal year;

4. The estimated amount necessary during the fiscal year to meet the annual actuarial requirements of the pension fund as provided in Sections 4-118 and 4-120 of the Illinois Pension Code (40 ILCS 5/4-118 and 4-120);
5. The increase in employer contributions that result from the implementation of the provisions of P.A.93-689 (effective July 1, 2004) (40 ILCS 5/4-118 and 4-120);
6. The total number of active employees who are financially contributing to the Fund;
7. The total amount that was disbursed in benefits during the fiscal year, including the number of and total amount disbursed to (i) annuitants in receipt of a regular retirement pension, (ii) recipients being paid a disability pension, and (iii) survivors and children in receipt of benefits;
8. The funded ratio of the Fund;
9. The unfunded liability carried by the Fund, along with an actuarial explanation of the unfunded liability; and
10. The investment policy of the Board.

B. Audit of the Pension Fund

The Board shall have the assets of the fund and their current market value, as well as all financial transactions, verified by an independent certified public accountant of its choice no later than June 30 of each year. The accountant shall report the results of the audit to the Board as soon as reasonably possible at the end of each fiscal year.

C. Audit Committee

The President shall appoint a three-member audit committee to review the audit report, and other financial reports and documents, including management letters, prepared by or on behalf of the Fund. The committee shall report the results of the audit to the Board as soon as reasonably possible at the end of each fiscal year. (40 ILCS 5/4-118 and 4-134; 50 ILCS 310/0.01 *et seq.*)

1.14 Board Members Seminar and Travel Policy

A. Purpose

The Board of Trustees recognizes that they are being afforded educational opportunities through attendance at various seminars or conferences, in order to improve their effectiveness as named fiduciaries of the Elburn and Countryside Fire Protection District Pension Board. The goal of these forums is to improve the operation and administration of the plan solely for the best interests of its members and beneficiaries. To that end, the trustees will make all efforts to utilize these opportunities to the fullest while minimizing costs.

B. Authority

Illinois Revised Code 40 ILCS 5/1-109.3 states the following about the training requirements as a pension trustee:

"Sec. 1-109.3. Training requirement for pension trustees.

(a) All elected and appointed trustees under Article 3 and 4 of this Code must participate in a mandatory trustee certification training seminar that consists of at least 32 hours of initial trustee certification at a training facility that is accredited and affiliated with a State of Illinois certified college or university. This training must include without limitation all of the following:

- (1) Duties and liabilities of a fiduciary under Article 1 of the Illinois Pension Code.
- (2) Adjudication of pension claims.
- (3) Basic accounting and actuarial training.
- (4) Trustee ethics.
- (5) The Illinois Open Meetings Act.
- (6) The Illinois Freedom of Information Act.

The training required under this subsection (a) must be completed within the first year that a trustee is elected or appointed under an Article 3 or 4 pension fund. The elected and appointed trustees of an Article 3 or 4 pension fund who are police officers (as defined in Section 3-106 of this Code) or firefighters (as defined in Section 4-106 of this Code) or are employed by the municipality shall be permitted time away from their duties to attend such training without reduction of accrued leave or benefit time. Active or appointed trustees serving on the effective date of this amendatory Act of the 96th General Assembly shall not be required to attend the training required under this subsection (a).

(b) In addition to the initial trustee certification training required under subsection (a), all elected and appointed trustees under Article 3 and 4 of this Code, including trustees serving on the effective date of this amendatory Act of the 96th General Assembly, shall also participate in a minimum of 16 hours of continuing trustee education each year after the first year that the trustee is elected or appointed.

(c) The training required under this Section shall be paid for by the pension fund."

C. Board of Trustee Guidelines

- Meal reimbursement of actual costs not to exceed the per diem rate as found at US General Services Administration website www.gsa.gov/portal/category/21287
- Trustees should travel to no more than 1 out-of-state educational conference or seminars in a year with a cap of \$2,000 per year on actual and necessary travel costs for each trustee. This figure excludes conference registration charges and is exclusive of any actual hire back costs.
- There will be no more than 3 trustees at any one out-of-state educational conference or seminar. This requirement will exclude any trustee that is on a National committee or speaker for that conference.
- All out of state travel needs to be approved by the Board of Trustees before travel may take place. In the case of emergency travel that has to be completed before the next Board meeting, the President must approve trip.
- There will be no reimbursement of alcoholic beverages.

"Proper, reasonable and necessary expenses" means that the particular service or accommodation was in fact used by, or provided to, the trustee, and was appropriate under the circumstances and within the bounds of prudent judgment for their attendance in official duties at Board and committee meetings, financial/ investment due diligence trips, approved educational meetings, and any other additional duties pre-approved by the Board of Trustees.

Board of Trustee out of state travel expenses are limited to those incurred not more than one day before, during the event, and one day after unless a longer stay before or after the event results in lower airfare and the additional hotel and meal expenses do not exceed the savings differential.

Any travel incident or event that falls outside these guidelines must be brought to the Administration Committee to be considered for reimbursement.

Telephone calls or other electronic transmissions for E&CFPD Pension business use will be reimbursed to the Trustee.

The Treasurer of the Board shall transfer funds at the actual hire back cost from the Pension Fund to the appropriate District budget. The District shall use these funds that are transferred to hire back a replacement for the Board member. At least twenty-one (21) day notice to the Secretary of the Board and the District shall be required.

Upon the Board's approval in the case of Board member who is an active firefighter, the President shall be responsible for notifying the Fire Chief in writing, indicating the date that a replacement will be needed.

D. Car Rental

- Domestic travel: Full-size

E. Personal Car Usage

- Mileage rate is established according to the IRS mileage rate. This rate includes usage and gasoline. Please contact Administrative Assistant for the actual rate.
- If personal car is used in lieu of flying, reimbursement will be allowed for the lesser of coach airfare and a rental car or the established mileage rate for the number of miles driven.

F. Meal Reimbursement

- Reimbursement for meals in-state and out of state are made for actual expenses not to exceed the per diem referenced at the US General Services Administration website found at www.gsa.gov/portal/category/21287.
- An itemized receipt is required for meal reimbursement. This ensures that E&CFPD Pension Board is reimbursing appropriate amount as it relates to this travel policy.
- When more than one trustee or party is included on a bill, a list of who was included along with business affiliation and the purpose of the meeting needs to be documented on the receipt.

G. Lodging

- Lodging reimbursement will be made for reasonable amounts in the area traveling. If attending a conference, lodging is permitted at the conference location.
- Reimbursement will be made at the single occupancy rate.
- Rooms should be reserved at the government rate when possible and not to exceed the appropriate per diem as referenced at the US General Services Administration website found at www.gsa.gov/portal/category/21287.

1.15 Trustee Training

A. Initial Certification Requirement

All newly-appointed or newly-elected Board members must participate in a mandatory trustee certification training seminar that consists of at least 32 hours of initial trustee certification at a training facility that is accredited and affiliated with a State of Illinois certified college or university (see **Form 2**). This training must include all of the following topics:

1. Duties and liabilities of a fiduciary under Article 1 of the Illinois Pension Code;
2. Adjudication of pension claims;
3. Basic accounting and actuarial training;
4. Trustee ethics;
5. The Illinois Open Meetings Act; and
6. The Illinois Freedom of Information Act.

B. Annual Training Requirements

All elected and appointed Board members must annually complete a minimum of 16 hours of educational training after the first year that the trustee is elected or appointed (see **Form 2**). At least eight (8) hours of this annual requirement shall include training on ethics, fiduciary duty, investment issues, and any other curriculum the Board establishes as being important for the administration of the Fund. The Board shall annually certify its members' compliance and submit an annual certification to the Illinois Department of Insurance.

C. Eligibility; Replacing Board Members

Any Board member who does not complete the required training is not eligible to serve on the Board unless he or she completes the missed training within 6 months after the date the member failed to complete the required training.

If a Board member fails to complete the required training, a successor shall be appointed or elected to complete the Board member's unexpired term. (40 ILCS 5/1-109.3; 40 ILCS 5/1-113.8)

1.16 Fraudulent Statements or Records

No person, member, trustee, or employee of the Board shall knowingly make any false statement or falsify or permit to be falsified any Fund record in any attempt to defraud the Fund as a result of such act, or intentionally or knowingly defraud the Fund in any manner. (40 ILCS 5/1-135 and 4-138.5)

1.17 Freedom of Information

It is the policy of the Fund to permit access to and copying of public records in accordance with the Illinois Freedom of Information Act, balanced, however, by the limited exceptions recognized in the Act to safeguard individual privacy and the efficient operation of the Fund. The Fund shall appoint a Freedom of Information Officer, who shall ensure that the Fund complies with the Act through execution this policy.

A. Introduction

1. Brief Description of the Fund

The Elburn Firefighters' Pension Fund is an Article 4 pension fund organized pursuant to the Illinois Pension Code (40 ILCS 4-101 *et seq.*) for the benefit of its members and of their surviving spouses, children and certain other dependents. The Fund's administrative office is located at 210 E. North Street, Elburn, Illinois 60119.

2. Brief Description of the Method to Request Information

All public requests for information and/or records will be processed through the administrative offices of the Fund. Requests shall be directed to the Freedom of Information Officer at the address noted above. The first 50 black and white copies are free. Thereafter, each page will be charged \$.15 per page. Electronic, color or oversized copies will be charged at the actual cost to the Fund of reproduction.

For any additional information, the administrative office's telephone number is (630) 365-6855.

B. Public Access to Records

1. Generally

The Fund shall make available its public records to any person requesting access pursuant to the provisions of the Illinois Freedom of Information Act (5 ILCS 140/1 *et seq.*) (the "Act"), as well as other applicable law. The Fund shall not provide access to public records or portions thereof that are exempt from disclosure under the Act or as provided by other applicable law. Denials of requests for records will contain a detailed factual basis for the denial.

2. Nonexempt Materials Contained in Exempt Records

The Fund shall delete any information which is exempt from disclosure under the Act from a public document which contains nonexempt material, and make the remaining information available for inspection and copying.

3. Denial of Request for Public Records; Appeal

Any person denied access to inspect or copy any public record may appeal the denial to the Office of the Public Access Counselor at Illinois Attorney General, 100 West Randolph Street, Chicago, Illinois; telephone (312) 814-3000.

C. **General Materials Available**

The following information will be made available to the public:

1. **List of all Types or Categories of Records Under the Fund's Control**

a. **Financial records**

- Financial Statements
- Audits
- Warrant lists
- Investment reports

b. **General Records**

- Board meeting agendas and minutes
- Board resolutions
- Board policies, administrative procedures and forms
- Member names, benefits and dates of employment
- Insurance
- Legal notices
- Consulting contracts

D. **Request Procedures**

1. **Initiation of Request**

Any person wishing to inspect or copy a Fund's public record shall submit a written request to the Freedom of Information Officer. While the use of a specific form is not required, the Fund will provide a form upon request (see **Form 3**). Requests are accepted via personal delivery, mail, facsimile or email. Requests must specify Fund records with reasonable particularity to avoid inefficient use of staff time in retrieving and preparing records for inspection.

2. **Response to Request**

a. Upon receipt, the Freedom of Information Officer shall:

- 1) note the date the Fund received the written request;
- 2) compute the day on which the period for response will expire and make a notation of that date on the written request;
- 3) maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
- 4) create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

b. The Fund shall either comply with or deny the written request for public records within five (5) working days after its receipt. (see **Forms 4, 5 and 6**). Denial shall be by letter as provided below and contain a detailed factual basis for the denial. Failure to respond to a written request within five (5) working days after its receipt shall be considered a denial of the

request.

- c. The Fund's time for response may be extended for not more than five (5) additional working days from the original due date for any of the following reasons (see **Form 7**):
 - i) The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
 - ii) The request requires the collection of a substantial number of specified records;
 - iii) The request is couched in categorical terms and requires an extensive search for the records responsive to it;
 - iv) The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
 - v) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under the Act or should be revealed only with appropriate deletions;
 - vi) The request for records cannot be complied with by the Fund within five (5) working days without unduly burdening or interfering with the operations of the public body;
 - vii) There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of the Fund having a substantial interest in the determination or in the subject matter of the request.
- d. When additional time is required for any of the reasons listed, the Fund shall notify by letter the person making the written request within five (5) working days of receipt of request (see **Form 7**).
- e. The response times contained in this Section may be extended with the written agreement of the requestor.
- f. The Freedom of Information Officer shall:
 - 1) maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
 - 2) create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

3. **Procedure for Inspection or Copying**

- a. Inspection of Fund public records not excluded from inspection under the Act shall be permitted on days the Fund's office is open for business.
- b. Inspection must be made at the Fund's office, and records are not to be

removed from the Fund's office.

- c. The Freedom of Information Officer or his/her designee shall be present during inspection of Fund records.
- d. Inspection will not be allowed when records are in immediate use by persons exercising official duties which require use of the records.
- e. Copies of requested records will be provided by the Fund within the limitations of Fund's copying equipment.

4. **Fees**

- a. Letter-sized, black and white copies are charged at \$.15 per page after the first 50 copies. Each color copy will be charged at \$.25 per page. Persons requesting electronic or oversized copies of Fund public records shall reimburse the Fund for its actual cost for reproducing public records, as determined by the Freedom of Information Officer or his designee. Each record certified shall cost \$1.00.
- b. Documents shall be furnished without charge or at a reduced charge, as determined by the Board of Trustees of the Fund, if the person requesting the documents states the specific purpose for the request and indicates that a "waiver or reduction of the fee is in the public interest" pursuant to Section 6(b) of the Act (5 ILCS 140/6(b)). In setting the amount of the waiver or reduction, the Fund shall take into consideration the amount of materials requested and the cost of copying them.
- c. Records may be produced electronically, if requested. The Fund will email records where practicable. When requests are unable to be sent via email or the requestor does not desire emailed copies, the Fund shall purchase appropriate electronic media and copy the documents to the electronic media. The requestor will pay the actual cost of the media. In no event may the Fund accept electronic media from a requestor.

5. **Unduly Burdensome Request Exemption**

- a. Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the Fund and there is no way to narrow the request, and the burden on the Fund outweighs the public interest in the information.
- b. Before invoking this exemption, the Fund shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions.
- c. The Fund shall invoke this exemption in writing to the person making the request specifying the reasons why it would unduly burden the Fund and the extent to which compliance would so burden the operations of the Fund.
- d. Repeated requests for the same public records by the same person shall be deemed unduly burdensome under this provision.

6. **Documents Containing Personal Information**

- a. When a requested document contains information of a highly personal nature or whose release would be objectionable to a reasonable person, the Freedom of Information Officer must determine if the subject's right to privacy outweighs and legitimate public interest. If the Freedom of Information Officer determines the legitimate public interests outweigh privacy interests, the Freedom of Information Officer shall release the documents.
- b. If the Freedom of Information Officer determines the right to privacy outweighs any legitimate public interest, the Freedom of Information Officer shall seek an advisory opinion from the Public Access Counselor pursuant to the procedures adopted by that body.
- c. If the Freedom of Information Officer believes the advisory opinion is in error, with the consent of the Board of Trustees of the Fund, the Freedom of Information Officer may seek judicial review of the decision.

7. **Preliminary Drafts and Similar Documents**

- a. When the Freedom of Information Officer determines that a requested document is exempt under Section 7(1)(f) as a preliminary draft or other document exempted under this section, he shall initiate the advisory opinion procedures of the Public Access Counselor.
- b. If the Freedom of Information Officer believes the advisory opinion is in error, the consent of the Board of Trustees of the Fund, the Freedom of Information Officer may seek judicial review of the decision.

8. **Commercial Requests**

- a. Prior to responding to a request for records, the Freedom of Information Officer shall determine whether the requested records will be used in any sale, resale, solicitation or advertisements for sales or services. If the Freedom of Information Officer determines that the request is for one of these purposes, it shall be deemed a commercial request and response shall be governed by this section. Requests received from news media, non-profit, scientific or academic organizations shall not be considered commercial requests.
- b. When a request is for a commercial purpose, the Freedom of Information Officer shall respond to the requestor within five (5) business days, informing the requestor that the request is considered commercial.
- c. Within twenty-one (21) business days after the receipt of the commercial purpose request, the Freedom of Information Officer shall respond to the requestor. Such response shall either: 1) provide an estimate of the time required to provide the records, including a requirement that the requestor pay for the copies; 2) deny the request pursuant to one or more exemptions found in the Freedom of Information Act; 3) notify the requestor that the request is unduly burdensome and extend an opportunity to the requestor to reduce the request to manageable proportions; or 4) provide the requested records.

- d. When estimating the time required for responding to a commercial records request, the Freedom of Information Officer should consider the size and complexity of the request. Priority shall be given to non-commercial requests.

1.18 Identity and Privacy Protection

A. Generally

It is the policy of the Pension fund to protect the identity and privacy of all Pension Fund officials, officers, members, agents and members of the public. The Pension Fund shall comply with the Illinois Identity Protection Act ("IPA", 5 ILCS 179/1 et seq.) through implementation of this policy. (5 ILCS 179/35)

Except where required or authorized by law or regulation, the Pension Fund, its Board and its agents shall not collect, use, or disclose a person's Social Security Number ("SSN"). The Pension Fund shall not request SSNs except when it falls under a delineated exception permitted under the IPA. Persons not serving on the Pension Fund shall generally have no access to documents or information containing individuals' SSNs. Any more restrictive law, rule, or regulation regarding the collection, use or disclosure of a SSN shall control over Pension Fund rules set forth here. (5 ILCS 179/55)

B. Identity and Privacy Protections

1. Pursuant to the IPA, the Pension Fund's Freedom of Information Officer(s) or designee shall redact SSNs and private information from documents, including all or any portion of an individual's SSN requested for public inspection and copying of information pursuant to federal or state law, such as the Freedom of Information Act. (5 ILCS 179/15; 5 ILCS 140/2(c-5)). The Pension Fund shall provide a means to ensure that SSNs collected on Pension fund documents may be readily redacted in the event of a FOIA request.
2. Except where expressly permitted, the following actions are prohibited by the Pension Fund, and its officials, officers, members, agents, and employees. (5 ILCS 179/10).
 - a. To publicly post or publicly display in any manner an individual's SSN.
 - b. To print an individual's SSN on any card required for the individual to access products or services provided by the Pension Fund, unless otherwise required by law. This limitation includes encoding or embedding a SSN in any identification scheme, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of the SSN.
 - c. To require an individual to transmit his or her SSN over the internet, unless the connection is secure or the SSN is encrypted.
 - d. To print an individual's SSN on any materials that are mailed to the individual through the U.S. Postal Service, any private mail service, electronic mail, or any similar method of delivery, unless state or federal law requires the SSN to be on the document to be mailed.

The limitation of this sub-paragraph shall not apply to applications and forms sent by mail including, but not limited to:

- i. material mailed in connection with the administration of the Unemployment Act;
 - ii. material mailed in connection with any tax administered by the Illinois Department of Revenue; and
 - iii. documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the SSN, as long as the SSN is not printed, in whole or in part, on a postcard or other mailer that does not require an envelope, or that is visible without opening the envelope.
- e. To collect, use or disclose an individual's SSN unless:
 - i. required by federal or state law or regulation;
 - ii. the need and purpose is documented prior to the collection, use or disclosure; and
 - iii. the collection, use or disclosure is relevant to the documented need and purpose.

C. Exceptions

- 1. SSN may be disclosed under the following circumstances:
 - a. Disclosure to another local government when required by law or regulation, and if documented protections are provided.
 - b. Disclosure pursuant to court order, warrant or subpoena.
- 2. SSN may be collected, used or disclosed under the following circumstances:
 - a. When collection, use or disclosure is required to ensure the safety of state and local government employees; persons committed to correctional facilities, local jails, and other law-enforcement facilities or retention centers; wards of the state; and all persons working in or visiting a state or local government agency facility.
 - b. When collection, use or disclosure is required for internal verification or administrative purposes.
 - c. Collection or use to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit, such as a pension benefit or an unclaimed property benefit.

D. Violations

Anyone violating this policy may be subject to disciplinary action up to termination and/or criminal prosecution as provided by the IPA and law. (5 ILCS 179/45)

E. Training

All employees and officials who have access to SSNs in the course of their position with the Pension Fund shall undergo approved training on the handling and safeguarding the confidentiality of SSNs.

CHAPTER II - MEMBERSHIP IN FUND

2.01 Application for Membership

A. Generally

Any person appointed as a firefighter in the Elburn & Countryside Fire Protection District shall, within three (3) months after receiving his or her first appointment and within three (3) months after any reappointment, make written application to the Board to come under the provisions of Article 4 of the Pension Code. The eligibility of all applicants shall be determined by the Board in accordance with all applicable law.

B. Procedure for Application

Application to the Fund shall be made in writing on the Board's standard form (see **Form 8**) and submitted with a completed background information form (see **Form 9**). Any person appointed as a firefighter in the Elburn & Countryside Fire Protection District who has previously served as a firefighter for at least one (1) year in any other Illinois fire department or fire protection district and has been a member in another Article 4 pension fund shall notify the Fund of all such periods on the Board's standard form (see **Form 8**). Any firefighter hired on or after July 1, 2004, must, within 21 months of being hired, notify the following of his or her intent to combine creditable service from multiple Article 4 pension funds: (1) the Fund; (2) the District; (3) all previous fire departments or fire protection districts at which he or she was employed and was a member of an Article 4 pension fund; and (4) the Public Pension Division of the Division of Insurance, Illinois Department of Financial and Professional Regulation.

The applicant shall also undergo a medical examination to whether he or she currently suffers from heart disease, stroke, tuberculosis, or any disease of the lungs or respiratory tract, or cancer. The results of that examination shall be submitted on the Board's standard physician's certification form (see **Form 10**). (40 ILCS 5/4-107)

C. Transfer of Creditable Service from IMRF

1. Application for Membership

Any firefighter who was excluded from participation in the Fund because he or she earned credit for that service under Article 7 of the Illinois Pension Code (Illinois Municipal Retirement Fund (IMRF)) (40 ILCS 5/7-101 *et seq.*) and who is a participant in IMRF may become an active participant in the Fund by making a written application on the Board's standard form (see **Form 8**). Participation in the Fund shall begin on the first day of the month following the month in which the application is received by the Board.

2. Establishment of Creditable Service

Any firefighter who was excluded from participation in the Fund because he or she earned credit for service under IMRF and who is a participant in IMRF may also elect to establish creditable service for those periods of employment as a firefighter during which he or she was excluded from participation in an Article 4 fund. To establish this credit, the firefighter shall pay into the Fund the amount that the firefighter would have contributed had deductions from salary been made for this purpose at the time the service was rendered, together with interest thereon at 6% per annum, compounded annually, from the time the service was rendered until the date of payment, less any amounts transferred from IMRF under Section 7-139.10 of the Illinois Pension Code (40 ILCS 5/7-139.10). (see **Forms 11, 12, and 13**)

2.02 Determination of Continuing Eligibility for Benefits

A. Affidavit of Eligibility

All members drawing benefits from the Fund shall annually complete an Affidavit of Eligibility (see **Forms 14 and 15**) to verify that the member is still living and to ensure that the members and their beneficiaries meet eligibility requirements. The Affidavit shall be mailed every year to the member or beneficiary with his or her monthly check. The form must be completed, notarized and returned to the Treasurer within thirty (30) days of receipt. The Board may initiate an investigation regarding the continued validity of any eligibility for pension benefits by any member or beneficiary.

B. Annual Medical Examination of Members Receiving Disability Pensions

Medical examination of a member receiving a disability pension shall be made at least once each year prior to attainment of age 50 in order to verify continuance of disability. No examination shall be required after age 50. All members receiving disability benefits under the age of 50 shall sign an authorization for release of medical records to the Board of Trustees (see **Form 16**).

The physician who examined the member shall complete and forward to the Board a certification of continuance of disability (see **Form 17**) indicating whether the member continues to suffer from the disability, along with copies of all pertinent medical records with the Board's standard certification form (see **Form 18**).

C. Change Rendering Ineligibility

The Board shall review the completed forms to determine future eligibility. In the case of a member receiving disability benefits, the member shall be entitled to ten (10) days notice before any meeting or hearing of the Board at which the question of his or her disability is to be considered, and shall have the right to be present and represented by counsel at his or her expense.

If the Board determines that the individual pensioner's or beneficiary's status has changed to render him or her ineligible to receive benefits, the Board shall notify the pensioner or beneficiary by certified mail of its decision to cease payment of benefits, indicating the reasons for ineligibility. The pensioner or beneficiary may make a written request for a hearing before the Board to challenge its determination within thirty (30) days of receipt of the Board's decision. The hearing shall be conducted in accordance with the Board's hearing procedures. (40 ILCS 5/4-112)

2.03 Change of Records

All members and beneficiaries shall immediately notify the Board of any changes in address, children or marital status, and any other changes in circumstances that may affect their membership in the Fund or entitlement to benefits. Changes shall be submitted to the Board in writing on the Board's standard change of records form (see **Form 19**).

2.04 Refund of Deductions

A firefighter with less than twenty (20) years of service is entitled to a refund of his or her total contributions during such service if:

- A. He or she resigns or is discharged, or has been involuntarily laid off for other than disciplinary reasons for more than 180 calendar days; and

B. He or she has not received any disability pension payments.

The firefighter shall make application for refund on the Board's standard form (see Form 20). (40 ILCS 5/4-116)

2.05 Maintenance of Pension After Separation From Service

A firefighter with less than twenty (20) years, but more than ten (10) years, of service who is leaving the District may request that the total deductions made from his or her salary during the employment period to be left in the Fund (see Form 21). (40 ILCS 5/4-109)

2.06 Annual Statement of Contributions

The Board shall annually provide each member of the Fund with a statement of his or her aggregate contribution to the Fund.

2.07 Credit for Military Service

A. Generally

Firefighters in service on or after April 10, 2010, may obtain creditable service for pension purposes for up to twenty-four (24) months of service in the military, naval, or air forces of the United States that was served prior to employment by a municipality or fire protection district as a firefighter. To receive the credit for the military service prior to the employment as a firefighter, the firefighter must:

1. apply in writing to the Fund; and
2. make contributions to the Fund equal to:
 - (a) the employee contributions that would have been required had the service been rendered as a member; and
 - (b) an amount determined by the Fund to be equal to the employer's normal cost of the benefits accrued for that military service; and
 - (c) interest at the actuarially assumed rate provided by the Illinois Department of Insurance, compounded annually from the first date of membership in the Fund to the date of payment on items 1 and 2.

B. Character of Military Service for Credit Eligibility

A member shall be entitled to credit for military service only if the member's military service entitles him/her to eligibility pursuant to Section 4304 of the Federal Uniform Services Employment and Re-Employment Rights Act (38 U.S.C. Section 4304).

C. Application for Military Service Credit

A member seeking to claim credit for military service shall provide written notification to the Board of the intent to do so, and make the corresponding contributions required by law, no later than the time of application for a permanent pension. The member shall submit to the Board, along with a written request identifying the period for which credit is sought, a copy of the active-participant's Department of Defense form 214 (Certificate of Release of Discharge from Active Duty) for the relevant period for which creditable

service for pension purposes has been requested. (Form 22)

D. **Mandatory Contribution for Military Service**

The member must pay into the Fund the amount he/she would have contributed if he/she had been a regular contributor during such period, if the district for which the firefighter served had made no contributions on behalf of the firefighter. The member's contribution must be paid in one (1) lump sum and the credible service will not be issued until the Board has received the member's contribution paid in full. Credit for military service cannot be awarded if the member does not make this mandatory contribution. The Board shall notify the member of the amount due after consulting with the Illinois Department of Insurance to determine the amount due for the periods for which the member is seeking credit. (40 ILCS 5/4-108(1.5))

CHAPTER III - APPLICATION FOR BENEFITS AND HEARING PROCEDURES

3.01 Application for Benefits

A. Disability Pension

An application for a disability pension may be filed with the Board by or on behalf of any member who is qualified or who has allegedly become physically or mentally permanently disabled for service in the Elburn & Countryside Fire Protection District. Application for a disability pension shall be made on the Board's standard application for disability benefits (see **Form 23**). An application for disability pension shall be submitted as soon as the applicant is aware of the need. Upon receipt of an application, the Board's administrative secretary shall send a copy of the application to the Board's attorney. The Board shall respond within thirty (30) days of application and set a date for hearing on the application.

Applications for disability benefits shall include a clear and concise statement of the nature of the disability, including the relevant section under which the disability pension is sought, a description of the sickness, accident or injury giving rise to the disability, and the times and places of occurrence of each accident or injury involved. (40 ILCS 5/4-110, 4-110.1, 4-111, and 4-114)

B. Retirement Pension

Application for a retirement pension shall be made on the Board's standard application for retirement benefits (see **Form 24**). An application for a retirement pension shall be filed at least ninety (90) days before the requested effective date of the pension. Applications must be signed by the member, or in the event that he or she is unable to sign it, by an appropriate representative as determined by the Board.

C. Widow/Widower and/or Dependent Benefits

Application for widow/widower and/or dependent benefits shall be made on the Board's standard form for such benefits (see **Form 25**).

3.02 Processing and Investigation of Applications for Benefits

Upon receipt of an application for benefits, the Secretary shall distribute a copy to each member of the Board and forward a copy to the Board's attorney. At the next regular meeting of the Board or any special meeting called for such purpose, the Board shall take official notice of the receipt of the application. The Board shall request any information pertaining to the application as it may deem necessary and may designate an appropriate non-Board person or persons to investigate the application.

If the application is for a disability pension, the Board shall designate three (3) physicians who shall thoroughly examine the applicant and who shall transmit written certified reports of their medical examinations and copies of all medical records to the Board with the Board's standard certification form (see **Form 18**). The physicians shall submit their conclusions regarding the applicant's condition on the Board's standard physician's certification of disability (see **Forms 26 and 27**). In the event that any designated physician is, for any reason, unable to make such an examination, the Board shall designate another physician to do so. The Board may designate one or more of its members to select the physicians. (40 ILCS 5/4-112)

3.03 Hearings

A. Generally

The Board shall cause the applicant to receive at least ten (10) days notice by certified mail or personal service of the time and date of any preliminary hearing or hearings at which the question of the applicant's application is to be considered. An applicant shall have the right to be present at any such preliminary hearing or hearings; the right to be represented by counsel; the right to present witnesses, evidence or information relevant to the issues involved; and the right to cross examine all witnesses who testify at the hearing. However, the Board shall not have any obligation to provide the applicant with counsel.

The technical rules of evidence shall not apply to hearings conducted hereunder. At the discretion of the Board, interested parties other than the applicant shall have the right to representation, the right to present evidence or information relevant to the issues involved, and the right to cross-examine all witnesses who testify at the hearing. However, the Board shall not have any obligation to provide any interested party with counsel. The applicant and other interested parties (i.e., any member of the Fund) who seek to provide information in support or object to the pension application shall direct such information either orally at the hearing or in writing to the Board.

The Board shall inquire into all matters at issue, and no disability pension shall be given unless the Board establishes and determines that a disability exists based upon the examinations of the three (3) physicians and such other evidence as the Board may deem necessary. All hearings shall be held subject to the Open Meetings Act. All hearings shall be transcribed by a court reporter, and a copy of such transcript shall be placed in the applicant's pension file. (40 ILCS 5/4-112)

B. Hearing Agenda

The following agenda shall be generally used for all hearings:

**Agenda
Hearing on Request for Benefits
Elburn & Countryside Firefighters' Pension Fund
Board of Trustees
(date)**

- I. Call to Order
- II. Roll Call
- III. Presentation of Documents
 - A. Application to Pension Fund
 - B. Application for Benefits
 - C. Physicians' Certificates and Medical Records
 - D. Other Relevant Documents
- IV. Presentation by Applicant
- V. Presentation by Other Interested Parties
- VI. Discussion and Possible Action
- VII. Adjournment

C. Decision on Application

The Board shall cause to be prepared a written finding of fact, conclusions of law and a written order after the conclusion of the hearing. The Board shall send the applicant a

copy of this finding, along with its written decision on the application by certified mail or personal service.

D. Effective Date of Pension

If the applicant is granted a disability pension by the Board, the pension shall be retroactive to the date the application was filed with the Board or the day following the end of the applicant's District benefits (including salary and any applicable fringe benefits), whichever is later.

3.04 Qualified Illinois Domestic Relations Orders (QILDRO)

A. Generally

1. Compliance with QILDROs

The Elburn & Countryside Firefighters Pension Fund shall comply with any Qualified Illinois Domestic Relations Order (QILDRO) properly issued by an Illinois court pursuant to Section 1-119 of the Illinois Pension Code (40 ILCS 5/1-119). The fund shall promptly notify the firefighter and the "alternate payee" (as defined in 40 ILCS 5/1-119(a)(1)) by first class mail of the receipt of the order. (40 ILCS 5/1-119(d)(1))

2. Responding to subpoenas

Within forty-five (45) days after receiving a subpoena from any party to a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage in which a QILDRO may be issued, or after receiving a request from the firefighter, the fund shall issue a statement of a firefighter's accumulated contributions, accrued benefits, and other interests in the fund based on the data on file with the fund on the date the subpoena is received, and of any relevant procedures, rules, or modifications to the model QILDRO form that have been adopted by the fund.

In no event shall the fund be required to furnish to any person an actuarial opinion as to the present value of the firefighter's benefits or other interests. The papers, entries, and records, or parts thereof, of the fund may be proved by a copy thereof, certified under the signature of the secretary of the fund or other duly appointed keeper of the records of the fund and the corporate seal, if any. (40 ILCS 5/1-119(h)(1), (2) and (3))

3. Valid QILDROs

For a court order to be a valid QILDRO (see **Forms 28, 29 and 30**) (40 ILCS 5/1-119(n)), it must satisfy all of the following criteria:

- a. The order must be accompanied by a \$50.00 processing fee, payable to the Elburn & Countryside Firefighters' Pension Fund. (40 ILCS 5/1-119(d)(3))
- b. If the order applies to a firefighter who became a member of the Elburn & Countryside Firefighters' Pension Fund before July 1, 1999, an original "Consent of Issuance of QILDRO" must accompany it, signed by the firefighter (see Form 29(40 ILCS 5/1-119(m)(1))
- c. The order must be a certified copy of the original. (40 ILCS 5/1-119(d)(1))
- d. The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any

proceeding to amend or enforce such a property distribution. (40 ILCS 5/1-119(b)(1))

- e. The order must contain the name, residence address and Social Security number of the firefighter. (40 ILCS 5/1-119(c)(1))
- f. The order must contain the name, residence address and Social Security of the alternate payee. (40 ILCS 5/1-119(c)(1))
- g. The order must identify the Elburn & Countryside Firefighters' Pension Fund as the retirement system to which it is directed. (40 ILCS 5/1-119(c)(1))
- h. The order must identify the court that issued it. (40 ILCS 5/1-119(c)(1))
- i. The order must specify the dollar amount of the benefit and/or refund payable to the alternate payee. Percentages or formulas are not permissible. (40 ILCS 5/1-119(c)(2))
- j. The order must apply only to benefits that are statutorily subject to QILDROs. (40 ILCS 5/1-119(c)(2))
- k. The order must be in the form adopted by the Elburn & Countryside Firefighters' Pension Fund (see **Form 29**). Any alterations to the form will invalidate the order. (40 ILCS 5/1-119(p)(2))
- l. The effective date of the order must be on or after July 1, 1999. (40 ILCS 5/1-119(l)(2))

B. Deficiencies in order; cure period

Certain minor deficiencies in the court order may be corrected during the 60-day period following the date Elburn & Countryside Firefighters' Pension Fund sends notice of the deficiency or deficiencies. This 60-day period is called the "cure period."

1. Deficiencies that may be "cured"

Only the following deficiencies may be corrected during the cure period:

- a. The order is not accompanied by a \$50.00 processing fee payable to the Elburn & Countryside Firefighters' Pension Fund, or the check does not clear.
- b. The order is not a certified copy of the original.
- c. The order omits the residence address or Social Security number of the firefighter or alternate payee.
- d. The order contains an inaccurate Social Security number of the firefighter or alternate payee.
- e. The order contains a misspelled name of the firefighter or alternate payee.
- f. Any other deficiency deemed by the Elburn & Countryside Firefighters' Pension Fund to be of a minor nature.
- g. The order applies to a firefighter who became a Elburn & Countryside Firefighters' Pension Fund member before July 1, 1999, and is not accompanied by an original valid "Consent to Issuance of QILDRO" signed by the firefighter (see **Form 30**).

2. Holding of benefits during cure period

If the firefighter is receiving monthly benefits or has a refund application pending when the court order is received, Elburn & Countryside Firefighters' Pension Fund will hold the portion of the benefit payable to the alternate payee during the cure period until:

- a. the order is resubmitted during the cure period and the fund determines that all deficiencies have been corrected; or

- b. the cure period expires.

If the order is rejected, any amounts held during the cure period will be paid to the firefighter.

3. Deficiencies that cannot be "cured"

All other deficiencies will invalidate the order and cannot be cured during the cure period. An order that has one or more of the following deficiencies is invalid:

- a. The order is not issued by an Illinois court of competent jurisdiction.
- b. The order identifies a different retirement system.
- c. The order does not identify the court that issued it.
- d. The order does not specify the dollar amount of each benefit to be paid to the alternate payee, or contains a formula or percentage.
- e. The order applies to a benefit that is not statutorily subject to QILDROs.
- f. The order is not in the form adopted by the Elburn & Countryside Firefighters' Pension Fund.
- g. The effective date of the order is prior to July 1, 1999.

C. Processing a valid QILDRO

Once the Elburn & Countryside Firefighters' Pension Fund has determined that a QILDRO is valid, one of the two following scenarios will occur:

1. If the firefighter has not yet started receiving benefits, the QILDRO will be placed in the firefighter's pension file and will be implemented when the first affected benefit payment begins.
2. If the firefighter is already receiving benefits, payment to the alternate payee will begin with the first payment occurring at least thirty (30) days after the QILDRO was received by the Elburn & Countryside Firefighters' Pension Fund.

D. Current Address of alternate payee

Each alternate payee is responsible for keeping the Elburn & Countryside Firefighters' Pension Fund informed of his or her current address. The fund must have the alternate payee's current address in order for him or her to receive payment. The law does not require the fund to search for a missing alternate payee, other than sending notice to the last known address. (40 ILCS 5/1-119(e)(1))

When a firefighter becomes eligible to receive a retirement benefit or refund, the fund will send notice to the alternate payee's last known address. If the notice is returned undelivered, fund will hold the amount payable to the alternate payee for 180-days from the date that the notice or the date the benefit becomes payable, whichever is later. The amount held will not bear interest. If the fund is notified of the alternate payee's current address within 180-days, the fund will pay that amount held to the alternate payee. (40 ILCS 5/1-119(e)(2))

If the fund does not learn of the alternate payee's current address within 180-days, the fund will pay that amount to the firefighter. If the fund later becomes aware of the alternate payee's current address, the fund will implement the QILDRO but the alternate payee will have no right to any amounts already paid to the firefighter. (40 ILCS 5/1-119(e)(2))

E. Rights of the alternate payee

An alternate payee's rights are no greater than the firefighter's rights. An alternate payee is only eligible to receive payment if and when the firefighter becomes eligible to receive the benefit or refund. A QILDRO cannot order payment to an alternate payee that will not otherwise have been payable to the firefighter.

Any required application for benefits may be made by an alternate payee who is entitled to all of that benefit under a QILDRO, provided that all other qualifications and requirements have been met. However, the alternate payee may not make the required application for a firefighter's refund or a retirement benefit if the firefighter is in active service or below the minimum age for receiving an undiscounted retirement annuity in the fund that has received the QILDRO or in another retirement system in which the firefighter has creditable service and in which the firefighter's rights under the Retirement Systems Reciprocal Act (40 ILCS 5/20-101 *et seq.*) would be affected as a result of the alternate payee's application for a firefighter's refund or retirement benefit. (40 ILCS 5/1-119(i))

F. "Amount payable" exceeding benefits; multiple QILDROs

If the amount payable to an alternate payee exceeds the actual amount of the benefit payable to the firefighter, the excess shall be disregarded. If there are multiple QILDROs against a firefighter, the fund will honor all of them to the extent possible. If the total amount payable to all alternate payees exceeds the actual amount of the benefit, the QILDROs will be satisfied in the order that the fund received them. Amounts payable to multiple alternate payees will not be adjusted *pro rata*. Amounts that cannot be paid because the benefit is not large enough to cover all amounts payable shall be disregarded. Elburn & Countryside Firefighters' Pension Fund is not responsible to an alternate payee or any other person for amounts that remain unpaid because the benefit is not large enough. (40 ILCS 5/1-119(f)(1) and (2))

If a benefit subject to a QILDRO subsequently becomes subject to a tax lien or withholding order, the amount due will be deducted from the portion of the benefit payable to the person who is subject to the tax lien or withholding order. The remainder of the benefit will be payable to the recipient who is not affected by the tax lien or withholding order. Elburn & Countryside Firefighters' Pension Fund is not required to make up any amounts not paid due to recoupment of an overpayment, tax lien, or withholding order.

G. Increases in benefits

The QILDRO form approved by the Elburn & Countryside Firefighters' Pension Fund contains a place to indicate whether the alternate payee is to receive a portion of any automatic annual increase in the firefighter's retirement benefit. If the "WILL NOT" box is checked, then the amount of the firefighter's retirement benefit that the alternate payee is receiving will remain constant, unless a modified QILDRO is received.

If the "WILL" box is checked, then the alternate payee will receive a portion of any increase in the firefighter's retirement benefit. Thus, for example, if the "WILL" box is checked, and the firefighter's total retirement benefit increases 3%, the portion going to the alternate payee will increase by 3%.

H. Modified QILDROs

A modified QILDRO must be sent to the Elburn & Countryside Firefighters' Pension Fund in the same manner as a new one. A separate \$50.00 processing fee payable to the Elburn & Countryside Firefighters' Pension Fund must be paid each time a modified QILDRO is submitted.

A modified QILDRO will hold the same priority of payment that the original one held, as long as the modified QILDRO does not increase the amount of any benefit payable to the alternate payee or affect a different benefit.

If a modified QILDRO increases the amount or affects different benefits, it will lose the priority held by the original QILDRO. Priority of payment will then be based on the date Elburn & Countryside Firefighters' Pension Fund received the modified QILDRO. If the benefit is subject to multiple QILDROs, losing the original QILDRO's priority could actually result in a reduced payment to the alternate payee. If the benefit is not large enough to pay the total due under all QILDROs, only the amount remaining after all other QILDROs have been paid will be available. (40 ILCS 5/1-119(f)(3))

I. Election of benefit payment; Recoupment of overpayments

As long as there is in effect a QILDRO relating to a firefighter's retirement benefit, the firefighter may not elect a form of payment that has the effect of diminishing the amount of the payment to which any alternate payee is entitled, unless the alternate payee has consented to the election in writing and this consent has been filed with the fund. If the firefighter attempts to make such election, the fund shall reject the election and advise the firefighter of the need to obtain the alternate payee's consent.

If the fund discovers that it has mistakenly allowed such election, it shall thereupon disallow that election and recalculate any benefits affected thereby. If the fund determines that amount paid to a regular payee should have been paid to an alternate payee, the fund shall, if possible, recoup the amounts by deducting the overpayment from future payments and making payment to the other payee.

The fund may make deductions for recoupment over a period of time in the same manner as is provided by law or rule for the recoupment of other amounts incorrectly disbursed by the fund in instances not involving a QILDRO. The fund shall incur no liability to either the alternate payee or the regular payee as a result of any payment made in good faith, regardless of whether the fund is able to accomplish recoupment.

J. Expiration of a QILDRO

A QILDRO expires upon the death of the alternate payee. The right to receive the affected benefit will then revert to the firefighter. A QILDRO will also expire upon the death of the firefighter or when the firefighter takes a refund that terminates his or her participation in the Elburn & Countryside Firefighters' Pension Fund. This is true even if the firefighter's refund is paid to an alternate payee. (40 ILCS 5/1-119(g)(1) and (2))

3.05 Termination of Pension Benefits - Application of Pensioner

A. Generally

A pensioner receiving a duty-related pension, a non-duty related pension, or an occupational disease pension may file an application with the Board to terminate the pension benefits in order to seek reinstatement to active service (see **Form 33**). Upon satisfactory proof to the Board that a firefighter on the disability pension has recovered from disability, the Board shall terminate the disability pension. The Board shall conduct a hearing on the termination application in generally the same manner as hearings for disability pension applications. (40 ILCS 5/4-112)

B. Establishment of Creditable Service after return to active duty

A firefighter may establish creditable service for a period up to three (3) years of time during which the firefighter received a disability pension (see **Form 34**). In order to establish such creditable service, the firefighter must have returned to active service after the disability for a period at least equal to the period for which credit is to be established. The firefighter shall make contributions with interest to the Fund based upon the salary upon which the disability pension was based prior to commencement of a retirement pension in accordance with Section 4-108(c)(7) of the Illinois Pension Code (40 ILCS 5/4-108(c)(7)).

3.06 Conversion of Disability Pension to Retirement Pension

A. Less than twenty (20) years of creditable service

A pensioner receiving a disability pension who is 50 years old or older and who has not completed 20 years of creditable service whose disability continues for a period which when added to his or her period of active service equals 20 years may elect to retire by submitting a written application to the Board (see **Form 35**). (40 ILCS 5/4-113(a)).

B. Twenty (20) or more years of creditable service

A pensioner receiving a disability pension who is 50 years old or older and who has sufficient creditable service to qualify for a retirement pension may elect to retire at any time by submitting a written application to the Board (see **Form 35**). (40 ILCS 5/4-113(b))

3.07 Benefits for Firefighters with Creditable Service in Multiple Article 4 Pension Funds

A. Retirement Pension

1. Qualifications

A firefighter who seeks retirement benefits from multiple Article 4 pension funds must:

- a. Be a firefighter at the time of withdrawal from the last pension fund and for at least the final three (3) years of employment prior to that withdrawal;
- b. Establish service credit with at least two (2) Article 4 pension funds under the Illinois Pension Code (40 ILCS 5/4-101 *et seq.*);
- c. Have a total of at least twenty (20) years of service under the various Article 4 firefighter pension funds;
- d. Be at least 50 years of age; and
- e. Be an active firefighter after July 1, 2004. (40 ILCS 5/4-109.3(b))

2. Retirement Benefits

A current Elburn & Countryside Fire Protection District firefighter who is eligible for retirement benefits from the Elburn & Countryside Firefighters' Pension Fund and at least one other Article 4 pension fund may elect to receive a retirement pension from the Fund and any other Article 4 pension fund in which he or she has at least one (1) year of service credit but has not received a refund under Section 4-116 of the Illinois Pension Code (40 ILCS 5/4-116) or has repaid any

such refund in accordance with Section 4-109.3(g) of the Illinois Pension Code (40 ILCS 5/4-109.3(g)).

In such cases, the Fund shall calculate the retirement pension that would be payable to the firefighter as if he or she had participated in the Fund during his or her entire period of service under all Article 4 pension funds (the "hypothetical pension").

Any period of service for which the firefighter has received a refund under Section 4-116 of the Illinois Pension Code (40 ILCS 5/4-116) shall be excluded from this calculation unless the firefighter repays that refund to the applicable pension fund as required in Section 4-109.3(g) of the Illinois Pension Code (40 ILCS 5/4-109.3(g)). Proof of such creditable service and any refunds to other Article 4 pension funds must be provided to the Fund by the firefighter (see **Form 11**) and confirmed by the applicable pension fund (see **Form 36**).

The Fund shall subtract the original amounts of the retirement pensions payable to the firefighter by all other pension funds as provided in Section 4-109.3(d) of the Illinois Pension Code (40 ILCS 5/4-109.3(d)) from the firefighter's hypothetical pension, and the remainder shall be the retirement pension payable to the firefighter by the Fund. (40 ILCS 5/4-109.3)

3. Former Elburn & Countryside Fire Protection District Firefighters seeking Retirement Benefits

A former District of Elburn & Countryside firefighter who is eligible for retirement benefits from another Article 4 pension fund may elect to also receive a pension from the Fund and any other Article 4 pension fund in which he or she has at least one (1) year of creditable service but has not received a refund under Section 4-116 of the Illinois Pension Code (40 ILCS 5/4-116) (see **Form 37**).

If the former firefighter had received a refund from the Fund, he or she may reinstate creditable service in the Fund by payment to the Fund of the amount of the refund together with interest thereon at the rate of 6% per year, compounded annually, from the date of the refund to the date of payment. This repayment may be made in equal installments over a period of up to ten (10) years but must be paid in full prior to retirement. (see **Form 12**)

Upon retirement, the former firefighter shall receive a monthly retirement pension from the Fund as provided in Section 4-104.3(d) of the Illinois Pension Code. (40 ILCS 5/4-109.3(d))

B. Duty-Related Disability Pension

If a firefighter who is a participant in the Fund and who has creditable service in other Article 4 pension funds becomes entitled to a disability pension under Section 4-110 of the Illinois Pension Code (40 ILCS 5/4-110), the Fund shall pay the disability pension based only on the firefighter's service with the Fund. (40 ILCS 5/4-109.3(l))

C. Occupational Disease Disability Pension

If a firefighter who is a participant in the Fund and who has creditable service in other Article 4 pension funds becomes entitled to an occupational disease pension under Section 4-110.1 (40 ILCS 5/4-110.1), the Fund shall only pay a portion of that occupational disease disability pension equal to the proportion that the firefighter's service

credit with the Fund bears to the firefighter's total service credit with all of the Article 4 pension funds to which he or she has made contributions.

A firefighter who has contributed to Article 4 pension funds for at least five (5) years of creditable service shall be deemed to have met the five (5) year creditable service requirement under Section 4-110.1 regardless of whether the firefighter has five (5) years of creditable service with the Fund.

D. Non-Duty Disability Pension

If a firefighter who is a participant in the Fund and who has creditable service in other Article 4 pension funds becomes entitled to a non-duty disability pension under Section 4-111 of the Illinois Pension Code (40 ILCS 5/4-111), the Fund shall pay the entire disability pension, provided that the firefighter has at least seven (7) years of creditable service with the Fund. (40 ILCS 5/4-109.3(n))

3.08 Intervention

The District may seek permission to intervene in a pending hearing. Intervention may be granted in the sole discretion of the Board. If granted, the District shall be considered a party to the case, and depending on the circumstances, the hearing may be treated as an adversarial one with the District and applicant acting as opposing parties. Any petition to intervene must be received by the Board no later than twenty-one (21) days prior to the hearing date.

CHAPTER IV - EXPENDITURES AND INVESTMENTS

4.01 Expenditures

The Treasurer shall provide the Board with a detailed expenditure analysis prior to any meeting. The Board shall review this analysis to determine if expenditures have been made in accordance with the Pension Code.

The President and the Treasurer shall review any expenditures between meetings. If it is determined that a debt needs immediate payment and that the debt is a reasonable and customary expense, the President and the Treasurer, in concert, shall direct that the debt be paid. At the next meeting, the debt/expense shall be discussed and voted on by the Board. If the President and Treasurer are not able to reach an agreement to pay such debt/expense, the debt/expense shall be held for payment until the Board meets to discuss and vote for approval or denial.

All payouts to pensioners or beneficiaries shall be examined at a Board meeting to verify check amounts for accuracy, review of benefit status (i.e. eligibility requirements, automatic increases or decreases), and current medical status, if on disability. Disability or pension checks must be mailed directly to the recipient, as opposed to a third party

4.02 Investments

A. Investment Committee and Policy

The President shall annually appoint an investment committee consisting of the Treasurer and two additional members of the Board. The committee shall review the investment practices of the Board and make written findings and recommendations to the Board. The committee shall also be responsible for drafting an investment policy consistent with the requirements of the Pension Code for review and adoption by the Board. The policy shall be reviewed annually by the committee and changes recommended to the Board for adoption. The Treasurer shall be responsible for implementation of the investment policy. See **APPENDIX A** (?) for investment policy.

B. Purchase, Sale or Transfer of Investments

The Board shall authorize the purchase, transfer or sale of any investment instrument or security owned by the Fund. The signatures of the Treasurer and one other Board member shall be required. If necessary, approval may be obtained with one facsimile signature and one original signature. (40 ILCS 5/4-128 and 4-130)

C. Investment Transparency

The Board shall make available for inspection by the public information concerning the investment of its funds as set forth in Section 1-113.16 of the Illinois Pension Code and update the information at least quarterly. (40 ILCS 5/1-113.16)

4.03 Investment Advisers/Consultants

A. Appointment of Advisers and/or Consultants

The Board may appoint one or more investment advisers and/or consultants to assist the Board in investing the funds of the Pension Fund. Such appointments shall be made pursuant to a written contract between the investment adviser/consultant and the Board, and shall comply with the Board's investment policy and the requirements of Section 1-113.5(b) of the Illinois Pension Code. All investment advisers and/or consultants

appointed by the Board shall acknowledge in writing that they are fiduciaries with respect to the Fund. (40 ILCS 5/1-113.5(b))

B. Investing with Investment Advisors/Consultants

No Board member or other fiduciary of the Fund shall knowingly cause or advise the Fund to engage in an investment transaction with an investment adviser when the Board member or other fiduciary (i) has any direct interest in the income, gains, or profits of the investment adviser through which the investment transaction is made or (ii) has a business relationship with that investment adviser that would result in a pecuniary benefit to the Board member or other fiduciary as a result of the investment transaction. (40 ILCS 4/1-110(d)).

C. Five-Year Limitation of Consultants' Agreements

All contracts to provide consulting services to the Fund with respect to the selection of fiduciaries shall be limited in term to a maximum of five (5) years. No contract to provide consulting services to the Fund may be renewed or extended. At the end of the term of a consulting services contract, however, the contractor is eligible to compete for a new contract. (40 ILCS 5/1-113.5(a-5))

4.04 Servicer Certification

All Illinois finance entities (as defined by Section 1-110.10 of the Illinois Pension Code) with which the Fund invests or deposits Fund assets must annually certify that it complies with the requirements of the High Risk Home Loan Act and the rules adopted pursuant to that Act that are applicable to that Illinois finance entity, prior to the investment or deposit of Fund assets. The Fund shall submit the certifications of each Illinois finance entity with which the Fund invests or deposits fund assets to the Public Pension Division of the Illinois Department of Financial and Professional Regulation. (40 ILCS 5/1-110.10)