

**THE BOARD OF TRUSTEES OF THE
HOFFMAN ESTATES
FIREFIGHTERS' PENSION FUND**

**ADMINISTRATIVE RULES
AND
REGULATIONS**

**APPROVED & UPDATED
AUGUST 13, 2018**

**BOARD OF TRUSTEES OF
HOFFMAN ESTATES FIREFIGHTERS' PENSION FUND**

ADMINISTRATIVE RULES

TABLE OF CONTENTS

<u>SECTION</u>	<u>TITLE</u>	<u>PAGE</u>
<u>PART 1 - GENERAL PROVISIONS</u>		
§101.1	<u>Authority</u>	1
§101.2	<u>Purpose</u>	1
§102.1	<u>Definitions</u>	1
 <u>PART 2 - ADMINISTRATION</u>		
§201.1	<u>Board Creation</u>	5
§201.2	<u>Composition</u>	5
§202.1	<u>Terms of Office</u>	6
§202.2	<u>Staggering of Terms</u>	6
§203.1	<u>Death, Resignation or Inability to Perform</u>	6
§204.1	<u>Compensation</u>	7
§204.2	<u>Reimbursement of Expenses</u>	7
§205.1	<u>Meetings</u>	9
§205.2	<u>Emergency Meetings</u>	10
§205.3	<u>Location of Meetings</u>	10
§205.4	<u>Time of Meetings</u>	10
§205.5	<u>Notice of Meetings</u>	11

§205.6	<u>Open Meetings</u>	11
§205.7	<u>Executive Sessions</u>	11
§205.8	<u>Order of Business</u>	12
§205.9	<u>Minutes</u>	13
§205.10	<u>Quorum</u>	13
§205.11	<u>Fraud</u>	13
§206.1	<u>Freedom of Information Act Requests and Officer</u>	14

PART 3 - PENSION BOARD OFFICERS AND EMPLOYEES

§301.1	<u>Officers</u>	15
§301.2	<u>Employees/Consultants</u>	15
§301.3	<u>Duties of the President</u>	15
§301.4	<u>Duties of the Secretary</u>	16
§301.5	<u>Duties of Treasurer</u>	16

PART 4 - RECORDKEEPING AND REPORTING REQUIREMENTS

§401.1	<u>Minutes of Meetings</u>	17
§401.2	<u>Correspondence File</u>	17
§401.3	<u>Investment File</u>	17
§401.4	<u>Litigation Files</u>	17
§401.5	<u>Annual List of Payments to the Municipality</u>	18
§401.6	<u>Annual Report by the Pension Board</u>	18
§402.1	<u>Annual Report of the Municipality's Treasurer</u>	19

§402.2	<u>Report for Tax Levy</u>	20
§402.3	<u>Statements of Economic Interest</u>	20
§402.4	<u>Duty of the Municipality to Furnish Information</u>	20
§403.1	<u>Recordkeeping as to Fire Department Participants</u>	21
§403.2	<u>Recordkeeping as to Retirees</u>	22
§403.3	<u>Recordkeeping as to Disability Pension Beneficiaries</u>	23
§403.4	<u>Recordkeeping as to Surviving Spouses</u>	23
§403.5	<u>Recordkeeping as to Children's Benefits</u>	24
§403.6	<u>Recordkeeping as to Separated Members</u>	24
§404.1	<u>Subpoenas</u>	25
§405.1	<u>Confidentiality</u>	25
§405.2	<u>Freedom of Information Act Requests</u>	26

PART 5 - ELECTION OF PENSION BOARD TRUSTEES

§501.1	<u>Election of Board Trustees</u>	27
§501.2	<u>Term of Office</u>	27
§501.3	<u>General Election Procedure</u>	27
§502.1	<u>Eligibility to Serve as a Trustee</u>	28
§502.2	<u>Nomination and Voting Rights</u>	28
§502.3	<u>Mailing Lists</u>	29
§503.1	<u>Nomination Procedure</u>	29
§503.2	<u>Elections by Acclamation</u>	29
§503.3	<u>Contested Elections</u>	30

§503.4	<u>Runoff Elections</u>	31
§503.5	<u>Special Elections</u>	31
§504.1	<u>Election Results</u>	31

PART 6 - ADMISSION AND WITHDRAWAL PROCEDURES

§601.1	<u>Eligibility for Admission into the Pension Fund</u>	32
§601.2	<u>Persons Excluded</u>	32
§601.3	<u>Written Application</u>	33
§601.5	<u>Refund</u>	33
§601.7	<u>Readmission into the Pension Fund</u>	34

PART 7 - ADJUDICATION OF DISABILITY AND RETIREMENT PENSION CLAIMS

§701.1	<u>Hearing Procedure in Contested Cases</u>	35
§701.2	<u>Request for a Hearing</u>	35
§701.3	<u>Termination, Suspension or Recomputation of Disability Pension Benefits</u>	35
§701.4	<u>Loss, Suspension or Revocation of Pension Rights or Benefits</u>	36
§702.1	<u>Disability Pension Applications</u>	36
§702.2	<u>Burden of Proof in Disability Pension Claims</u>	38
§702.3	<u>Medical Examination Procedure in Disability Pension Claims</u>	38
§702.4	<u>Unreasonable Failure to Appear for an Independent Medical Examination or Submit Documentation</u>	39
§702.5	<u>Rescheduling an Independent Medical Examination</u>	40

§703.1	<u>Determining When to Grant a Duty Disability Pension As Opposed to a Non-Duty Disability Pension</u>	41
§704.1	<u>Preclusion Against Simultaneous/Interim Retirement Pension Retirement Pension Adjudications During the Pendency of Disability Pension Claim Adjudications; Expense Offsets</u>	41

PART 8 - HEARING PROCEDURES

§801.1	<u>Applicability</u>	43
§801.2	<u>Filing of Documents</u>	43
§801.3	<u>Form of Documents</u>	43
§801.4	<u>Computation of Time</u>	43
§801.5	<u>Appearances</u>	44
§802.1	<u>Notice of Hearing</u>	45
§802.2	<u>Service of the Notice of Hearing</u>	45
§802.3	<u>Rights of the Parties Prior to Hearing</u>	45
§802.4	<u>Continuance of Postponement of Hearings</u>	46
§802.5	<u>Admissibility of Evidence</u>	46
§803.1	<u>Conduct of the Hearing</u>	47
§803.2	<u>Record of Proceedings</u>	48
§803.3	<u>Authority of the Presiding Official</u>	49
§803.4	<u>Official Notice</u>	50
§804.1	<u>Written Decision</u>	50
§804.2	<u>Certificate of Service</u>	51
§805.1	<u>Preparation of Administrative Record</u>	51
§806.1	<u>Certificate of Payment</u>	52

PART 9 - INVESTMENT POLICIES

§901.1 Investment Objectives..... 53

§902.1 Investment Policy 53

PART 10 – TRUSTEE ETHICS & EDUCATION

§1001.1 Purpose..... 54

§1001.2 Standard of Care 54

§1001.3 Existing Law..... 54

§1001.4 Conflicts of Interests..... 54

§1001.5 Prior Communications with Benefit Applicants..... 55

§1001.6 Prior Communications with Potential Providers or Contractors 56

§1001.7 Communications with Investment Managers 56

§1001.8 Applicability to Service Providers..... 56

§1001.9 Prohibition of Consideration 57

§1001.10 Impartiality & Confidentiality..... 57

§1002.1 Trustee Training 57

**PART 11 – PURCHASE OF PRIOR MILITARY SERVICE
AND CREDITABLE SERVICE TRANSFERS**

§1100.1 Purpose..... 59

§1100.2 Application 59

§1100.3 Prior Military Service 59

§1100.4 Discharge Paperwork 60

§1100.5 Contribution Calculations 60

§1100.6	<u>Proration</u>	61
§1101.1	<u>Transfers of Creditable Service</u>	61

**PART 12 – BUYBACK OF UNPAID CONTRIBUTIONS
FOR BREAKS IN SERVICE**

§1200.1	<u>Breaks in Service for less than 30 days</u>	63
§1200.2	<u>Breaks in Service in excess of 30 days</u>	63
§1200.3	<u>Written Authorization</u>	63
§1200.4	<u>Calculations & Withholdings: Breaks Less than 30 Days</u>	64
§1200.5	<u>Calculations & Withholdings: Breaks in Excess of 30 Days</u>	64
§1200.6	<u>Repayment Deadlines</u>	64
§1200.7	<u>Proration</u>	65
§1200.8	<u>“Thirty Days”</u>	65
§1200.9	<u>Interest</u>	65

**BOARD OF TRUSTEES OF THE
HOFFMAN ESTATES FIREFIGHTERS' PENSION FUND**

ADMINISTRATIVE RULES

PART 1 - GENERAL PROVISIONS

§101.1 Authority.

(a) Implementing Article 1 and Article 4 of the Illinois Pension Code, 40 ILCS, §5/1-101, et seq., and §5/4-101 et seq. The promulgation of these rules is authorized under §5/4-126 of the Illinois Pension Code.

§101.2 Purpose.

(a) The purpose of these rules is to establish uniform procedures for the implementation of Article 1 and Article 4 of the Illinois Pension Code by the Hoffman Estates Firefighters' Pension Board. These rules are also promulgated for the benefit of and to provide guidance to pension fund members, participants and beneficiaries and are available for inspection at the office of the Pension Board.

§102.1 Definitions.

(a) As used in these rules, the terms set forth below shall have the following definitions and meanings, except when the context of the rule specifies and requires a different meaning.

- (1) Pension Board. "Pension Board" shall mean the trustees of the Hoffman Estates Firefighters' Pension Fund as established under 40 ILCS 5/4-121 of the Pension Code.
- (2) Pension Code. "Pension Code" means the provisions of Illinois law contained in Article 1, Article 4, and Article 22 of Chapter 40, Illinois Compiled Statutes, as currently promulgated.
- (3) Pension Fund. "Pension Fund" shall mean the Hoffman Estates Firefighters' Pension Fund established pursuant to Article 4 of the Illinois Pension Code for the benefit of firefighters employed by the Hoffman Estates Fire Department and their beneficiaries.
- (4) Municipality. "Municipality" shall mean the Village of Hoffman Estates, Illinois.
- (5) Participant. "Participant" shall mean any employee or former employee of the Hoffman Estates Fire Department and any member of the Pension Fund who is or may be eligible to receive benefits under Article 4 of the Pension Code. A participant must meet the definitional requirement of "Firefighter" under Article 4 of the Pension Code in order for the Pension Board to have jurisdiction to adjudicate a disability claim.
- (6) Beneficiary. "Beneficiary" shall mean any retired member of the Pension Fund or any person designated by a participant or eligible to receive benefits under Article 4 of the Illinois Pension Code.

- (7) Firefighter. "Firefighter" shall mean any person who is appointed in accordance with Illinois law, to the Hoffman Estates Fire Department and is sworn and commissioned to perform the duties of a firefighter as outlined in 40 ILCS 5/4-106.
- (8) Fiduciary. A person is a "fiduciary" with respect to the Hoffman Estates Firefighters' Pension Fund to the extent that the person: (1) exercises any discretionary authority or discretionary control respecting management of the pension fund, or exercises any authority or control respecting management or disposition of its assets; (2) renders investment advice or renders advice on the selection of fiduciaries for a fee or other compensation, direct or indirect, with respect to any moneys or other property of the pension fund or retirement system, or has any authority or responsibility to do so; (3) has any discretionary authority or discretionary responsibility in the administration of the pension fund or retirement system or (4) is a "consultant" as defined by §1-101.5 of the Pension Code.
- (9) Investment Adviser. A person is an "investment adviser", "investment advisor", or "investment manager" with respect to a pension fund or retirement system established under this Code if the person: (1) is a fiduciary appointed by the Board of Trustees of the Pension Fund in accordance with §1-109.1; (2) has the power to manage, acquire, or

dispose of any asset of the Pension Fund; (3) has acknowledged in writing that he or she is a fiduciary with respect to the Pension Fund; and (4) is at least one of the following: (i) registered as an investment adviser under the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.); (ii) registered as an investment adviser under the Illinois Securities Law of 1953; (iii) a bank, as defined in the Investment Advisers Act of 1940; or (iv) an insurance company authorized to transact business in this State. §1-101.4.

PART 2 – ADMINISTRATION

§201.1 Board Creation.

(a) The Hoffman Estates Firefighters' Pension Board is created pursuant to 40 ILCS 5/4-121 of the Illinois Pension Code. The makeup of the Pension Board is to be governed by the provisions of that section.

§201.2 Composition.

(a) The Hoffman Estates Firefighters' Pension Board, according to the law, shall be composed of five (5) members. The Pension Board shall be known as the "Board of Trustees of the Hoffman Estates Firefighters' Pension Fund." Two members of the Pension Board shall be elected by active participants of the fire department. Two members of the Pension Board shall be appointed by the Mayor of the Village of Hoffman Estates. The fifth member of the Pension Board shall be elected by and from the beneficiaries of legal age.

(b) In the event that there are no retired firefighters in the Fund willing to serve on the Board then an additional active firefighters shall be elected to the Board.

§202.1 Terms of Office.

(a) Each trustee of the Hoffman Estates Firefighters' Pension Board shall serve a three year term of office.

(1) The term of office of any appointed trustee may extend beyond the three year term if a successor has not been appointed and qualified.

(2) The term of office shall begin to run at the next regularly scheduled Pension Board meeting after the appointment of the trustee.

(3) The term of office of any elected trustee may extend beyond the three year term if a successor has not been elected in accordance with the provisions of the Pension Code.

§202.2 Staggering of Terms.

(a) It shall be the policy of the Pension Board that the terms of office for active participant trustees and municipal appointee terms are to be staggered.

§203.1 Death, Resignation or Inability to Perform.

(a) Upon the death, resignation or the inability to perform of any elected Pension Board trustee, his or her successor shall be elected for the unexpired term at a special election. A special election shall follow the same procedure as used in the regular biennial election.

(b) Upon the death, resignation, or the inability to perform of any appointed Pension Board trustee, the Pension Board shall notify the Village Mayor and

request that a successor be appointed to fill the unexpired term of the trustee who is no longer able to perform his or her duties.

§204.1 Compensation.

(a) Pension Board trustees are not entitled to receive any compensation for services performed as trustees.

§204.2 Reimbursement of Expenses.

(a) Pension Board trustees are entitled to be reimbursed for all reasonable expenses incurred on behalf of the Hoffman Estates Firefighters' Pension Board in furtherance of Pension Board business.

(b) Pension Board trustees are entitled to be reimbursed for reasonable expenses in attending any conferences, seminars or training programs.

(c) Active member trustees may attend training while on duty. In the event that it is necessary to hire back a replacement for an active member trustee, the pension fund will reimburse the Village for the expense incurred. An active trustee needing duty coverage for training that lasts more than one day will have the entire shift covered. If an active trustee is attending a one-day training, they will return to shift following the conclusion of training. If duty coverage is needed, the pension fund president should be informed to facilitate coverage with the Fire Department.

(d) The following expenses incurred by Trustees in their capacity as a

Pension Board Trustees, on Pension Board authorized business shall be subject to reimbursement;

(1) Travel – there shall be a reimbursement rate consistent with current I.R.S. practice when Trustees use personal vehicles for Pension Board business, excluding travel to Pension Board meetings. Travel requiring air fare will only be reimbursed at a coach fare rate.

(2) Meals – Trustees shall be entitled to reimbursement for the reasonable costs of meals while attending training conferences, seminars or other authorized Pension Board business. Trustees shall be entitled to reimbursement for the following meals; while on Pension Board Business:

a) breakfast

b) lunch

c) dinner

(3) Lodging – Trustees shall be entitled to reimbursement for lodging at a standard double occupancy room rate.

(e) Trustees shall not be entitled to reimbursement for any expenses incurred for spouses. Trustees shall not be entitled to reimbursement for lost wages or compensation.

(f) In order to obtain such reimbursement, the trustee must submit written documentation evidencing the expense incurred and payment of the expense.

The bill will then be presented at the next regularly scheduled meeting of the

Pension Board and the trustees will vote on whether or not to approve payment of the expense. The approval or denial of any request for reimbursement made by a trustee, will be recorded in the minutes of the meeting that the reimbursement is requested. In certain cases, with prior approval of a majority of the Pension Board, held at a regular or special Board meeting, the Pension Board may authorize pre-payment of airfare, meals and lodging expenses.

§205.1 Meetings.

(a) The Pension Board shall hold quarterly meetings in January, April, July and October of each year. In the event that the regular meetings cannot proceed on those quarterly dates, the meeting will be rescheduled at the earliest possible date convenient to all of the Pension Board trustees. Notice and posting requirements under the Open Meetings Act shall be followed when rescheduling meetings.

(b) The Pension Board may agree to meet more than four times a year. The Pension Board may agree to meet either monthly or bi-monthly if, in the Pension Board's determination, such meetings are necessary for the prudent and efficient administration of the affairs and activities of the Pension Fund.

§205.2 Emergency Meetings.

(a) The President of the Hoffman Estates Firefighters' Pension Board may call special meetings in emergent or unforeseen situations, upon reasonable notice to all of the Pension Board's trustees. The reasons for such emergency meetings shall include but not be limited to: (1) discussion of pending or threatened litigation; (2) discussion of investment activity; (3) discussion of pension fund applications; (4) discussion of retirement pension requests or application requests; (5) any other situation requiring immediate Board action.

(b) Any Pension Board trustee may request an emergency. All emergency meetings shall be convened in accordance with the applicable requirements contained under the Open Meetings Act.

§205.3 Location of Meetings.

(a) Unless otherwise specified, all meetings of the Hoffman Estates Firefighters' Pension Board will be held at the offices of the Hoffman Estates Fire Department, Station 24, 5775 Beacon Pointe Drive, Hoffman Estates, Illinois.

§205.4 Time of Meetings.

(a) Unless otherwise specified all regularly scheduled meetings and all emergency meetings shall begin at 9:30 AM.

§205.5 Notice of Meetings.

(a) Notice of all regularly scheduled meetings shall be posted in accordance with the provisions of the Open Meetings Act.

(b) Notice of any emergency meetings will be posted as far in advance of the meeting as is reasonable under the circumstances.

§205.6 Open Meetings.

(a) All Pension Board meetings are open to the public with the exception of those matters that, in the Pension Board's opinion are to be conducted in executive or closed session.

§205.7 Executive Session.

(a) The President or presiding official of the Pension Board may close any meeting and adjourn in executive session under all applicable listed exceptions under the Open Meetings Act including, but not limited to the following circumstances:

- (1) discussion of investment activity or the sale of securities;
- (2) discussions concerning the appointment, employment or the termination of a Pension Board employee;
- (3) discussions concerning the settlement of claims against the Pension Board;
- (4) discussions to consider pending or threatened litigation;

- (5) meetings dealing with requests for disability applications, at the applicant's request;
- (6) deliberations of the Pension Board when deciding disability and retirement pension applications.

No final action will be taken by the Pension Board in executive session. A verbatim recordation will be kept of all matters heard in executive session.

§205.8 Order of Business.

(a) All meetings of the Hoffman Estates Firefighters' Pension Board shall be conducted under the following agenda:

- 1. Call to Order
- 2. Roll Call
- 3. Public Comment
- 4. Approval of Minutes
- 5. Accountant's Report
- 6. Attorney's Report
- 7. Investment Report
- 8. Informational Items or Unfinished Business
- 9. New Business
- 10. Closed Session (if needed)
- 11. Adjournment

(b) The rules of procedure to be followed at such meetings will be Robert's Rules of Order, unless Robert's Rules of Order conflict with the Pension Code, the Rules of the Hoffman Estates Firefighters' Pension Board or would be unduly burdensome.

(c) Public comment shall be limited to three minutes per person.

§205.9 Minutes.

(a) Minutes of all Pension Board meetings shall be kept in accordance with the recordkeeping provisions set forth in Part 4 of these Rules.

§205.10 Quorum.

(a) A quorum of the Pension Board shall consist of at least three trustees. The approval of any and all Pension Board business shall require the affirmative vote of at least three (3) trustees at any given meeting. Under applicable circumstances provided by the Illinois Open Meetings Act, telephone appearance of a trustee at a regular or special meeting shall be permitted. A trustee may attend a meeting telephonically so long as; (a) a quorum of the members of the public body is physically present, and (b) the member is prevented from attending due to personal illness or disability, employment purposes or business of the public body or family/other emergency. Attendance by other means shall be construed in accordance with the applicable provisions of the Open Meetings Act.

§205.11 Fraud.

Any person, member, trustee, or employee of the Board who knowingly makes any false statement or falsifies or permits to be falsified any record of a Pension Fund in any attempt to defraud such Fund as a result of such act,

or intentionally or knowingly defrauds the Fund in any manner, is guilty of a Class A misdemeanor.

§206.1 Freedom of Information Act Requests & Officer.

(a) All Freedom of Information Act requests shall immediately be turned over to the Pension Board's Freedom of Information Act Officer.

(b) The Freedom of Information Act Officer shall undergo annual recertification and training as mandated by the Illinois Attorney General's Office.

PART 3 - PENSION BOARD OFFICERS AND EMPLOYEES

§301.1 Officers.

(a) The officers of the Hoffman Estates Firefighters' Pension Board shall be the president and secretary. The Pension Board may elect other officers as deemed necessary.

§301.2 Employees/Consultants.

(a) The Pension Board may, in its discretion, hire employees, experts or consultants to carry out certain duties and functions of the Pension Board. The duties of any such employees and compensation will be specified in the minutes of the Pension Board meeting establishing the employment relationship. The Board may delegate the hiring of any experts.

(b) No person receiving either a disability pension or a retirement pension shall be eligible for employment by the Pension Board.

§301.3 Duties of the President.

(a) The President shall preside over all functions and duties of the Pension Board, unless such functions or duties are specifically delegated to other trustees, employees or agents of the Pension Board. The President shall preside over all meetings of the Pension Board and execute all orders, certificates and other documents necessary to carry out the affairs and

activities of the Pension Board.

§301.4 Duties of the Secretary.

(a) The Secretary shall perform the following duties and functions: (1) be the custodian of all Pension Board records, minutes of the meetings, and documentation; (2) record and transcribe the minutes of all regular, special and emergency meetings of the Pension Board; (3) execute any and all documents on behalf of the Pension Board; (4) certify the authenticity of all resolutions or documents of the Pension Board; (5) perform all other duties necessary to the administration of the Pension Board, at the direction of the President or the Pension Board. The Pension Board is authorized to employ an Assistant Secretary to perform any of the above duties.

§301.5 Duties of The Treasurer.

(a) The Treasurer of the Village shall be the treasurer of the Pension Board and shall perform the following duties and functions; (1) act as custodian of the Fund's assets and shall secure and safely keep the funds assets, subject to the control and direction of the Pension Board; (2) keep all books and accounts concerning the fund in such a manner as may be prescribed by the Pension Board.

PART 4 - RECORDKEEPING AND REPORTING REQUIREMENTS

§401.1 Minutes of Meetings.

(a) The Secretary or Assistant Secretary shall keep and maintain minutes of all public meetings and separate verbatim minutes of matters heard in executive session. Minutes of all executive session meetings will be reviewed by the Pension Board on a semi-annual basis to determine if the matters contained in those minutes can now be disclosed to the public.

§401.2 Correspondence File.

(a) The Pension Board shall maintain a general correspondence file with copies of all correspondence sent or received by the Pension Board, including contracts entered into by the Board with legal counsel, investment managers, and other persons employed or retained by the Pension Board.

§401.3 Investment File.

(a) The Pension Board shall maintain on an annual basis, an investment file containing all documentation and correspondence relating to investment activity each year.

§401.4 Litigation Files.

(a) The Pension Board shall maintain a separate file as to all matters in

litigation. If the litigation involves the denial of a retirement pension or a disability pension, the litigation file may be maintained as a part of the applicant's personal file.

(b) All matters contained in the litigation file shall be considered private and not disclosable to the public.

§401.5 Annual List of Payments to the Municipality.

(a) The Pension Board shall submit to the Board of Trustees of the Village of Hoffman Estates an annual report of pension fund payments to be made, which report shall state: (1) the persons entitled to payments; (2) the amount of such payments; and, (3) the reasons for such payments. This report shall also include all items of income accrued to the Pension Fund during the fiscal year.

(b) The report shall be submitted at the close of the municipality's fiscal year ending December 31st of each year.

(c) The report shall be signed by the President and Secretary of the Pension Board and certified or attested to under oath.

§401.6 Annual Report by the Pension Board.

(a) The Pension Board shall also submit an annual report to the municipality as to the general condition of the Pension Fund. This report shall be made prior to the municipality's December meeting held for the levying of taxes

for the year for which the report is made.

(b) The annual report shall contain the following information:

- (1) The assets of the Pension Fund;
- (2) The estimated receipts during the next succeeding calendar year from the deductions of the salaries of firefighters and all other sources;
- (3) The estimated amount required during the next calendar year to pay all pensions and other obligations of the Pension Fund and to meet the annual requirements of the Pension Fund for the municipality's portion of the financing as set forth in §5/4-118 of the Pension Code.

§402.1 Annual Report of the Municipality's Treasurer.

(a) Under the Pension Code the treasurer of the municipality is required to provide a sworn statement to the Pension Board which is to contain the following information:

- (1) All monies received and paid out by the treasurer on behalf of the Pension Fund;
- (2) The amounts presently held on behalf of and owing to the Pension Fund.

§402.2 Report for Tax Levy.

(a) The Pension Board shall report to the Mayor of the municipality on the condition of the pension fund at the end of its most recently completed fiscal

year. The report shall be made prior to the council or board meeting held in December of each year for appropriating and levying taxes for the year for which the report is made. The report may be prepared by an enrolled actuary retained by the Pension Board.

§402.3 Statements of Economic Interest

(a) Each Trustee of the Hoffman Estates Firefighters' Pension Board shall be required to file a Statement of Economic Interest, as set out in 5 ILCS 420/4A-103, prior to May 1st of each year.

§402.4 Duty of the Municipality to Furnish Information.

(a) Upon the demand of the Pension Board, any official of the municipality shall furnish a statement to the Pension Board relating to the municipality's method of financing the Pension Fund or the handling of Pension Fund assets. All books and records of that municipal official shall be produced at any time for examination and inspection by the Board.

(b) In the event that treasurer, or any other municipal official refuses to produce such books and records, the Pension Board may exercise its subpoena power pursuant to 40 ILCS 5/4-123.1 of the Pension Code in order to require the production of such books, records or testimony. The subpoena may require the treasurer or other municipal official to appear at the regularly

scheduled meeting of the Pension Board, or at any specially scheduled meeting called by the Pension Board.

§403.1 Recordkeeping as to Fire Department Participants.

(a) A file shall be maintained on each active firefighter who is a participant and member of the Fire Pension Fund. Each active member's file should contain the following documentation:

- (1) Application for Membership;
- (2) Any medical reports or documentation as to the applicant's physical or mental fitness to perform the duties of a firefighter;
- (3) Pension Board's letter of acceptance into the Hoffman Estates Firefighters' Pension Fund;
- (4) Copy of participant's birth certificate;
- (5) Copy of participant's marriage certificate;
- (6) Copy of documentation evidencing military service after admission into the Pension Fund;
- (7) Birth certificates for all dependents;
- (8) A record of the participant's contributions and service credits on an annual basis;
- (9) Yearly creditable service reports received from the municipality or fire department (if any);
- (10) Copies of any disability pension applications that were withdrawn or

denied by the Pension Board;

(11) Copies of any orders and decisions of the Pension Board denying a disability pension or a retirement pension filed by the participant;

(12) All correspondence to and from the participants.

(b) Each participant shall be required to complete a Participant Information Form. In the event that the participant or the municipality fails or refuses to supply any of the documentation set forth above, the file shall contain a memorandum to that effect.

§403.2 Recordkeeping as to Retirees.

(a) A file shall be maintained on all retired members of the Pension Fund. Each retired member's file should contain the following documentation:

(1) Application for retirement benefits;

(2) Documentation as to Benefit Computations:

(A) Date of Birth;

(B) Date of Appointment;

(C) Date of Retirement;

(D) Creditable Service Records;

(E) Applicable Pension Rates;

(F) Salary attached to the rank held by the pension applicant;

(G) All documents previously maintained pursuant to §403.1 above.

§403.3 Recordkeeping as to Disability Pension Beneficiaries.

(a) A file shall be maintained on all disability pension applicants who were granted either a duty or non-duty disability. Each file should contain the following documentation:

- (1) Application for the disability pension;
- (2) Physician's statements and medical reports relating to the disability;
- (3) Transcript of Proceedings;
- (4) Order and Decision of the Pension Board;
- (5) Certificate of Payment;
- (6) Documentation as to benefit computation;
- (7) Annual physician's report as to continuing disability;
- (8) All documents previously maintained pursuant to §403.1 above.

§403.4 Recordkeeping as to Surviving Spouses.

(a) A file shall be maintained on each beneficiary who is a surviving spouse of any participant receiving benefits. Each file should contain the following documentation:

- (1) Application for surviving spouse benefits;
- (2) Marriage Certificate;
- (3) Death Certificate of Spouse;
- (4) Spouse's Birth Certificate;
- (5) Documentation relating to benefit computation;

- (6) All documents previously maintained pursuant to §403.1 above.

§403.5 Recordkeeping as to Children's Benefits.

(a) A file shall be maintained on each beneficiary who is the child of a firefighter receiving benefits. Each file should contain the following documentation:

- (1) Application for child's benefit;
- (2) Birth certificate of each child;
- (3) Adoption certificate, if applicable;
- (4) Details of benefit computation;
- (5) All documents previously maintained pursuant to §403.1 above.

§403.6 Recordkeeping as to Separated Members.

(a) A file shall be maintained on each participant and Pension Fund member who withdraws from the Pension Fund. Each file should contain the following information:

- (1) Written application withdrawing from the Pension Fund and requesting a refund of contributions;
- (2) Service date documentation;
- (3) Documentation as to how refund was computed;
- (4) Copy of canceled check or other documentation indicating payment of refund;

- (5) All documents previously maintained pursuant to §403.1 above.

§404.1 Subpoenas.

- (a) The Pension Board has the power to subpoena witnesses or documentation. The Pension Board shall retain a copy of each subpoena that is issued. The Pension Board will also issue a check with each subpoena for mileage or witness fees as provided by law on any subpoena that the Pension Board initiates on its own behalf.
- (b) At the request of any applicant in a disability or retirement pension proceeding, the Pension Board will execute and issue subpoenas. The subpoena shall be prepared on a form acceptable to the Pension Board. The Pension Board will not be responsible for the payment of any mileage or witness fees as required under the law. Such fees shall be the responsibility of the person requesting the subpoena.

§405.1 Confidentiality.

- (a) All records of the Pension Board shall be considered confidential and not subject to disclosure to the general public except where otherwise required by law.
- (b) Any Pension Fund participant or beneficiary may review his or her own file upon written request.
- (c) Any records that are subject to the Freedom of Information Act shall be

disclosable only to the extent provided for under that Act.

§405.2 Freedom Of Information Act Requests.

(a) Any requests for information or to review documentation made pursuant to the Freedom of Information Act shall be referred to the Pension Board's Freedom Of Information Act Officer. A copy of the request for information under the Freedom of Information Act should also be immediately sent to the Pension Board's legal counsel.

PART 5 - ELECTION OF PENSION BOARD TRUSTEES

§501.1 Election of Board Trustees.

(a) The election of the two Pension Board trustees chosen by the active participants and the Pension Board trustee chosen by the beneficiaries shall be held every three years. The election shall be held on the 3rd Monday in April of each election year.

§501.2 Term of Office.

(a) The term of office of each elected Pension Board trustee shall be three years.

§501.3 General Election Procedure.

(a) All elections will be supervised by the two trustees who are appointed by the Municipality and/or the Pension Board's accounting firm.

(b) All contested elections will be conducted under the Australian ballot system, which means voting by secret ballot.

(c) All elections will be conducted by mail and/or electronic mail. However, the Pension Board, by a majority vote of the trustees, may hold elections in any other manner that is consistent with the Pension Code. Elections that are not conducted by mail will be held at a convenient place within the municipality as determined by a majority vote of the trustees.

§502.1 Eligibility to Serve as a Trustee.

(a) All active firefighters who are members and participants of the Pension Fund are eligible to run for the office of Pension Board trustee representing the active Pension Fund participants. An active participant trustee who retires during his or her term may continue to serve the Pension Board throughout the remainder of that term.

(b) All beneficiaries of legal age are eligible to run for the office of Pension Board trustee representing the beneficiary members. A firefighter receiving a disability pension shall be considered a retired firefighter.

§502.2 Nomination and Voting Rights.

(a) For each nomination and for any election, no person shall be entitled to cast more than one ballot.

(b) At any election, each active participant shall be entitled to nominate two (2) persons for the office of pension board trustee representing the active members.

(c) At any election, each beneficiary of legal voting age shall be entitled to nominate one (1) person for the office of pension board trustee on behalf of the beneficiary members.

(d) A pension board participant or beneficiary may nominate himself or herself for the office of pension board trustee.

§502.3 Mailing Lists.

(a) The Pension Board shall maintain a mailing list of all active participants and all beneficiaries of legal voting age, with current addresses, and e-mail addresses which will be utilized in the nomination and election of pension board trustees.

§503.1 Nomination Procedure.

(a) During any election year, the Pension Board shall mail and/or email a Notice of Election and Request for Nominations to each participant and beneficiary who is eligible to vote. The notice shall advise each eligible voter of the upcoming election and instruct each active participant that he or she may nominate two candidates for trustee;

(b) The notice shall specify that all nominations must be post-marked or received by the Pension Board on a date pre-determined by the Pension Board per election. Nominations either received or post-marked after that date will be invalid;

(c) All participants or beneficiaries who are nominated in accordance with paragraph (c) above, will have his or her name placed on the election ballot.

§503.2 Elections by Acclamation.

(a) In the event that only two active participants are nominated for pension board trustee in any given election year, or only one beneficiary is nominated

in any given election year, the persons so nominated may be elected by acclamation.

§503.3 Contested Elections.

(a) In any election where three or more persons are nominated for the position of Pension Board trustee representing the participants or in any election where two or more persons are nominated for the position of Pension Board trustee representing the beneficiaries, the following procedure shall apply:

- (1) A ballot with the names of all active participants nominated for trustee will be mailed or e-mailed to each active participant who is eligible to vote on or before a predetermined date by the Pension Board for any election year. A ballot with the names of all beneficiaries nominated for trustee will be mailed or e-mailed to each beneficiary.
- (2) Each ballot packet shall contain a voting instruction sheet, a self-addressed return envelope and the ballot itself. The instruction sheet shall advise the voter the appropriate method to mark the ballot and to return the ballot in the self-addressed envelope along with the signed signature card.
- (3) The instruction sheet shall specify that all ballots must be post-marked or received on or before a predetermined date by the Pension Board. All ballots post-marked or received after that date shall be invalid and

will not be counted in any election.

- (4) All ballots that are not signed shall be invalid and will not be counted in any election.

§503.4 Runoff Elections.

(a) In case of ties, a runoff election shall be held on a predetermined date by the Pension Board. The Pension Board shall follow the procedure outlined in §503.3 above in all runoff elections.

(b) If any runoff election ends in a tie, the election winner will be decided by a coin toss officiated by an appointed trustee.

§503.5 Special Elections.

(a) Upon the death, resignation or inability to act of any elected trustee, his or her successor shall be elected for the unexpired term of such trustee, at a special election called by the Pension Board.

(b) Any special election will follow the nomination and election procedures set forth in §503.1 through §503.3 above.

§504.1 Election Results.

(a) The results of all elections for pension board trustee shall be posted in the same manner that other notices are posted.

PART 6 - ADMISSION AND WITHDRAWAL PROCEDURES

§601.1 Eligibility for Admission into the Pension Fund.

(a) In order for an individual to be admitted into the Hoffman Estates Firefighters' Pension Fund, he or she must meet all of the following requirements:

- (1) The individual must be appointed to the Hoffman Estates Fire Department and must be sworn and commissioned to perform the duties of a firefighter as classified by the Department;
- (2) Within three (3) months of receiving his or her appointment or reappointment, makes written application to the Pension Board for admission into the Hoffman Estates Firefighters' Pension Fund. The Pension Board may extend this admission period, in its discretion.

§601.2 Persons Excluded.

(a) The following individuals are ineligible for admission into the Hoffman Estates Firefighter Pension Fund:

- (1) part-time firefighters;
- (2) temporary employees;
- (3) municipal parking lot attendants;
- (4) clerks or civilian employees who perform clerical duties exclusively;
- (5) persons who fail to make a timely application within three months

after his or her first appointment or any reappointment;

- (6) person who fails to make his or her pension contributions as required under §5/4-118.1 of the Pension Code.

§601.3 Written Application.

- (a) Written application for membership shall be made on a form prescribed by the Pension Board.
- (b) All sworn firefighters will be given an application form and advised of the requirement to make written application at the time of his or her first appointment.

§601.5 Refund.

- (a) A firefighter who is separated from fire service with less than twenty (20) years of service and has not received any disability payment is entitled to a refund of his contributions upon filing a written request to the Pension Board.
- (b) Upon receipt and approval of the written withdrawal request, the Pension Board shall send the firefighter a refund statement indicating the amount of contributions the withdrawing member is entitled to receive. The Pension Board shall also advise the treasurer of the municipality to process the refund.
- (c) A firefighter is not entitled to any interest at the time of withdrawal of contributions.
- (d) Payment of a refund shall bar the firefighter and his or her dependents

from any further participation or receipt of any future Pension Fund benefits.

(e) A firefighter who is not separated from service may not withdraw from participation in the Fire Pension Fund.

§601.7 Readmission into the Pension Fund.

(a) A firefighter who is separated from fire service and receives a refund of his contributions and is subsequently re-appointed to the fire department and applies for re-admission into the Fire Pension Fund, will be entitled to re-admission if each of the following conditions are met:

- (1) The firefighter repays the Pension Fund the amount of the previous refund together with interest at 2% per annum, from the date of the refund until the date of the re-payment. **DOUBLE CHECK**

**PART 7 - ADJUDICATION OF DISABILITY
AND RETIREMENT PENSION CLAIMS**

§701.1 Hearing Procedure in Contested Cases.

(a) If the Pension Board determines that there is a possibility that an applicant for a disability or retirement pension may not be entitled to the full relief he or she is requesting, the applicant shall be entitled to a hearing before the Fire Pension Board.

(b) The hearing procedures to be followed in such cases are those procedures set out in Part 8 of these rules.

§701.2 Request for a Hearing.

(a) An applicant seeking a disability or retirement pension may in any case request that the Pension Board hold a hearing.

(b) The request for a hearing must be made in writing by the applicant or his or her legal counsel.

(c) The hearing procedures to be followed in such cases are those procedures set out in Part 8 of these rules.

§701.3 Termination, Suspension or Recomputation of Disability Pension or Benefits.

(a) If the Pension Board determines that there is a possibility that a

firefighter's disability pension may be terminated or recomputed for any reason, the pension recipient shall be entitled to a hearing before the Pension Board.

(b) A disability pension recipient's (under the age of 50) unreasonable failure to appear at his or her annual re-evaluation, as required pursuant to 40 ILCS 5/4-112, shall result in the recipient's assumption of any and all cancellation/rescheduling costs associated with his or her failed appearance. Additionally, the Board may, in its discretion, vote to suspend the recipient's pension benefits until he or she completes the re-evaluation process.

(c) The hearing procedure to be followed in such cases are those procedures set out in Part 8 of these rules.

§701.4 Loss, Suspension or Revocation of Pension Rights or Benefits.

(a) If the Pension Board determines that any participant or beneficiary may have his or her pension rights revoked or terminated, the participant or beneficiary shall be entitled to a hearing before the Pension Board.

(b) The hearing procedures to be followed in such cases are those procedures set out in Part 8 of these rules.

§702.1 Disability Pension Applications.

(a) All applications for a duty disability pension under 40 ILCS 5/4-110 of

the Pension Code or for an occupational disease disability pension under 40 ILCS 5/4-110.1 or for a non-duty disability pension under 40 ILCS 5/4-111 of the Pension Code shall be made on an Application for a Disability Pension Form, which will be supplied by the Pension Board.

(b) Along with the Application Form referred to in §702.1(a) above, each applicant will be required to submit a detailed written statement specifying exactly how the injury occurred. The applicant will also be required to submit medical evidence and/or doctor's reports setting forth the nature and extent of the illness or injury.

(c) In order to process the disability claim the Pension Board shall request a full and complete set of records from the applicant's medical providers. In accordance with its subpoena power under the Pension Code, it shall be the policy of the Pension Board to subpoena the disability applicant's personnel file, worker's compensation records, job description and any additional relevant documentation from the municipality. The issuance of said subpoena shall serve as notification to the municipality as to the pendency of the disability claim.

(d) A disability applicant maintains the burden of proving his or her entitlement to a disability pension. An applicant who continues to seek medical treatment throughout the adjudication process of his or her claim shall be responsible for supplementing the Pension Board with all additional treatment records prior to undergoing the requisite independent medical

evaluations. Failure to provide the Pension Board with up to date information concerning the applicant's medical treatment and condition may result in the delay and or suspension of disability pension proceedings.

§702.2 Burden of Proof in Disability Pension Claims.

(a) In all pension disability claims, the burden of proof is on the applicant to prove his or her entitlement to either a duty disability, occupational disease disability or a non-duty disability, by a preponderance of the evidence.

§702.3 Medical Examination Procedures in Disability Pension Claims.

(a) Upon receipt of an application for a disability pension, the Pension Board shall schedule medical examinations with physicians selected by the Board or its attorney, in order to determine whether the applicant is physically or mentally disabled.

(b) Medical examinations and opinions may be obtained from physicians selected by the Pension Board. The Pension Board in its discretion may select any of the physicians used by the applicant provided the prior medical reports and certificates of disability are presented to the Pension Board. The Pension Board may require other evidence of disability. The Board may, in its discretion have the applicant examined by as many physicians as deemed necessary in each case.

(c) The Pension Board will schedule the medical examinations with the

appropriate physicians and then notify the disability applicant of the scheduled examination on a Notice of Medical Examination Form.

(d) Should the disability applicant need to reschedule any given examination, he or she must notify the Pension Board's attorney at least seven (7) days prior to the date examination of his or her intent to cancel the appointment. An applicant's failure to provide at least seven (7) days notice of cancellation or outright failure to appear at the medical examination shall result in the applicant's assumption of any and all fees and costs associated with such cancellation/non-appearance.

(e) Each physician selected by the Pension Board shall be required to submit a detailed medical report indicating whether the applicant is physically or mentally disabled and whether the disability renders necessary his or her suspension from fire service. The physician may also indicate in appropriate cases whether or not the alleged injury of illness was incurred from the performance of an act of duty.

§702.4 Unreasonable Failure to Appear for an Independent Medical Examination or Submit Documentation

(a) If a disability pension applicant fails or refuses to take part in an independent medical examination scheduled by the Pension Board, without a valid reason, the Board may dismiss the application for failure to cooperate.

(b) Valid reasons for failing to take part in an independent medical

examination include the following:

- (1) Illness on the date of the scheduled examination or test;
 - (2) Not receiving timely notice of the scheduled examination or test, or receiving no notice at all;
 - (3) Being furnished incorrect or incomplete information, or being given incorrect information about the physician involved or the time or place of the examination or test, or;
 - (4) Having had death or serious illness occur in your immediate family;
 - (5) Having some sort of family emergency.
- (c) If a disability pension applicant unreasonably refuses to provide any medical documentation or other evidence deemed relevant by the Pension Board, the Board may determine that the applicant is not disabled.

§702.5 Rescheduling of Independent Medical Examination

- (a) A disability pension applicant who wishes to reschedule any independent medical examination must first contact and receive permission to reschedule from the Pension Board's legal counsel. Requests for rescheduling must be made at least seven (7) business days in advance of the contemplated medical examination.

§703.1 Determining When to Grant a Duty Disability Pension as Opposed to a Non-Duty Disability Pension.

(a) The determination as to whether a disability is or is not duty related will normally depend upon the facts in each particular case.

(b) In order to receive a duty disability pension the applicant must prove by a preponderance of the evidence that there is a relationship of proximate cause between the applicant's disability and the performance of an act of duty as a firefighter.

§704.1 Preclusion Against Simultaneous/Interim Retirement Pension Adjudications during the Pendency of Disability Pension Claim Adjudications; Expense Offsets

(A) The Pension Board shall not adjudicate a retirement pension claim and or begin remitting retirement pension benefit payments to a participant who has also filed and has pending a disability pension claim before it. Only after the participant's disability pension claim has been adjudicated and a written decision and order served may the Pension Board consider and adjudicate a participant's simultaneous or subsequent retirement pension claim.

(B) Under no circumstances shall the Pension Board remit retirement pension payments to a participant when he or she has a disability claim pending before the Pension Board.

(C) If a participant files a retirement pension claim 1) simultaneously with 2) during the pendency of, or 3) subsequent to his or her disability claim, and

under any of these listed circumstances seeks an award of retroactive retirement pension benefit payments which overlap the pendency of his or her disability claim, then the participant's retirement pension claim shall be adjudicated retroactively in accordance with the law, however such retroactivity shall be subject to offsets for costs incurred by the Pension Board in adjudicating the individual's disability claim. Such offset expenses shall include costs for applicable medical records retention, independent medical evaluation (IME) fees, functional capacity evaluation (FCE) fees, and court reporter/hearing costs.

(D) In accordance with the retroactive offsets provided in subsection (C), attorney's fees shall not be considered an offset expense.

(E) In accordance with subsection (C), the Pension Board reserves the right to negotiate the amount of disability expense offsets with the participant and withhold such expense offsets from future retirement pension benefit payments until all disability expense offsets have been recouped. The participant shall be entitled to notice and an opportunity to be heard regarding any intended disability expense offsets. The Pension Board shall formally render a vote as to any and all disability expense offsets.

PART 8 - HEARING PROCEDURES

§801.1 Applicability.

(a) These rules are applicable to all hearings held before the Fire Pension Board.

§801.2 Filing of Documents.

(a) All documents, applications, briefs or motions required or permitted to be filed with the Pension Board under these rules or the Pension Code, may be either mailed or delivered to the Hoffman Estates Firefighters' Pension Board or its legal counsel.

(b) The date of filing shall be the date of delivery of the document or the date of mailing.

§801.3 Form of Documents.

(a) All documents filed under these rules shall clearly show the Pension Board hearing number (if any) and the title of the proceedings.

(b) All documents shall be signed by the applicant or his or her attorney.

§801.4 Computation of Time.

(a) Computation of any period of time prescribed by this rule shall begin with the first business day following the day on which the act, event or

development initiating such period of time occurs, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday, or legal holiday. Where the period of time is five days or less, Saturdays, Sundays and legal holidays shall be excluded in the computation of time.

(b) Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received, unless otherwise specified by law.

§801.5 Appearances.

(a) Any person entitled to participate in proceedings may appear as follows:

- (1) A natural person may appear in his own behalf or by an attorney at law licensed to practice in the State of Illinois, or both.
- (2) A business, nonprofit, or government organization may appear by any bona fide officer, employee, or representative, or may be represented by an attorney licensed to practice in the State of Illinois, or both.

(b) An attorney appearing in a representative Village before the Pension Board shall file a written notice of appearance. There is no specified appearance form. Any notification in writing in the form of a letter to the Pension Board will serve as notice of appearance.

§802.1 Notice of Hearing.

(a) All administrative hearings conducted by the Hoffman Estates Firefighters' Pension Board shall be initiated by the Pension Board by the issuance of a written Notice of Hearing, which shall be served upon all parties of record and any attorney who has filed an appearance.

(b) The Notice of Hearing shall inform the party of the purpose for the hearing and state the date, time and place of the hearing.

§802.2 Service of the Notice of Hearing.

(a) Service of the Notice of Hearing shall be complete when the Notice is served in person, deposited in the United State mail by first class registered or certified mail, addressed to the last known address of the person involved, and/or served by electronic mail, so long as the applicant has agreed to such service, not less than ten days before the date designated for the Hearing. Service may also be made by facsimile.

(b) A party waives any claim of faulty or untimely notice of hearing by participating in the hearing.

§802.3 Rights of the Parties Prior to Hearing.

(a) Any party has the right to be represented by counsel, at his or her own expense.

(b) Any party may inspect and review all Board records pertaining to the

case and may obtain copies of any such records at his or her own expense.

(c) Any party, or the Pension Board, may compel the attendance of any fire department employee at the hearing, or any other person who may have information relevant to the needs, abilities or the status of the case. The procedures to be utilized regarding the issuance of subpoenas is set forth in §404.1 of these Rules.

Cross-reference: 40 ILCS 5/4-123.1.

§802.4 Continuance or Postponement of Hearings.

(a) A hearing may be continued for just cause by the Pension Board or any party. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponement or continuances, so that the case may be resolved in an expeditious manner. Repeated requests for a continuance are disfavored.

§802.5 Admissibility of Evidence.

(a) The formal rules of evidence utilized in the Illinois courts do not apply to hearings before the Pension Board.

(b) In accordance with Illinois Supreme Court Rule 90, all written exhibits offered into evidence by either the applicant or the Pension Board shall be presumptively admissible.

(c) If at least thirty (30) days written notice of the intention to offer any document(s) into evidence, including medical reports, is given to either the

applicant, applicant's legal counsel, the Pension Board or any other party, the document may be admitted into evidence, without foundation or other proof.

(d) Any party objecting to the admission of an exhibit may subpoena the author or maker of the document admissible under this rule, at the objecting party's expense, and examine the author or maker as if under cross-examination. Any party objecting to a document admissible under this rule shall request a subpoena from the Pension Board or the Board's attorney prior to the scheduled hearing date.

Cross-Reference: Supreme Court Rule 90.

§803.1 Conduct of the Hearing.

(a) All hearings shall be open to the public unless required by statute to be otherwise.

(b) All hearings shall be conducted in a fair, impartial and orderly manner in accordance with the Administrative Procedure Act. The Pension Board shall afford any party the opportunity to present evidence, testimony and arguments relative to the merits of the case, subject to the discretion of the presiding official.

(c) The Pension Board's legal counsel or the presiding official will rule on all legal issues or objections.

(d) The following shall be the order of proceedings on all hearings, subject

to modification by the presiding official or the Pension Board's legal counsel:

- (1) presentation and disposition of all motions or matters preliminary to the hearing;
- (2) the applicant or counsel may make an opening statement;
- (3) the Pension Board may then introduce any documentation regarding the disability or have any witnesses testify;
- (4) the applicant or counsel may then ask questions or make objections;
- (5) the applicant may then present any evidence or witnesses to support the claim;
- (6) the Pension Board or legal counsel may then ask questions or cross examine witnesses;
- (7) the applicant or counsel may then make a closing statement or in the alternative, submit a post-hearing brief;
- (8) the hearing is then closed and the matter is taken under advisement by the board or, upon motion, the Board will adjourn into closed session to deliberate or decide the case.

Cross-references: 5 ILCS 100/10-25; 100/10-40

§803.2 Record of Proceedings.

- (a) The Pension Board shall ensure that a verbatim record of the hearing is made, either by tape recording or by a court reporter. The Board shall also ensure that all written evidence presented at the hearing is marked to indicate

the party offering the evidence and is made part of the administrative record. The applicant may obtain a copy of the verbatim record of the hearing at his or her own expense.

§803.3 Authority of the Presiding Official.

(a) The Pension Board President, the Board attorney, or any Pension Board trustee selected by the majority of the trustees shall be the Presiding Official at the hearing.

(b) The Presiding Official shall have all powers necessary to conduct the hearing. The Presiding Official may exercise any of the powers necessary to conduct the hearing with the advice or guidance of the Pension Board's legal counsel. The Presiding Official's authority shall include but not be limited to the following powers:

- (1) administer oaths and affirmations;
- (2) regulate the course of hearings, set the time and place for continued hearings, fix time for filing of documents, provide for the taking of testimony by deposition if necessary, and generally conduct the proceeding according to generally recognized administrative law and these rules;
- (3) examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each

witness may testify;

- (4) rule upon offers of proof and receive relevant evidence, with the advice of counsel;
- (5) sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documentary evidence;
- (6) direct parties to appear and confer for the simplification of issues, and to otherwise conduct prehearing conferences;
- (7) dispose of procedural requests or similar matters;
- (8) enter any order that further carries out the purpose of this rule.

§803.4 Official Notice.

(a) Official notice may be taken at a hearing of all facts which judicial notice may be taken and of other facts of a technical nature, within the specialized knowledge and expertise of the Pension Board.

§804.1 Written Decision.

(a) All decisions of the Pension Board shall be in writing in the form of an Order and Decision. If a disability pension is granted as a result of any decision, the President and Secretary of the Pension Board shall sign and issue a certificate of payment and forward the certificate of payment to the treasurer of the municipality. All written decisions shall be formally approved by the Board at a subsequent regular meeting.

Cross-reference: 40 ILCS 5/4-125.

§804.2 Certificate of Service.

(a) All decisions of the Pension Board shall be accompanied by a certificate of service, signed by an agent of the Pension Board, indicating on whom the order was served, the date and the manner of service.

(b) Service may be made by either personal delivery or certified mail service shall be deemed to have been mailed when the decision and order is deposited in the United States mail in a sealed envelope, with postage prepaid, addressed to the party affected thereby at his or her last known address.

Cross-reference: 735 ILCS 5/3-103

§805.1 Preparation of Administrative Record.

(a) If the Pension Board is sued under the Administrative Review Law, 735 ILCS §5/3-101 et seq., as a result of any decision rendered, the Pension Board or its legal counsel shall prepare and file with the circuit court a complete administrative record.

(b) The administrative record should contain the following:

- (1) all applications filed by the party;
- (2) all records, reports, exhibits presented at the hearing;
- (3) a transcript of the hearing;
- (4) the written decision of the Pension Board;

- (5) the certificate of service;
- (6) the complaint and summons in administrative review.

Cross-reference: 735 ILCS 5/3-108

- (7) any additional documentation for a full deemed necessary for a full review of the case.

§806.1 Certificate of Payment.

- (a) When a disability pension is granted, the Pension Board shall issue a Certificate of Payment signed by the President and Secretary of the Pension Board.

Cross-reference: 40 ILCS 5/4-125

PART 9 – INVESTMENT POLICIES

§901.1 Investment Objectives.

(a) Safety of principal shall be the foremost objective of the Pension Board. The Board seeks to attain market rates of return on its investments consistent with constraints imposed by its safety objectives, cash flow consideration, and Illinois state laws that restrict the placement of public funds.

§902.1 Investment Policy.

(a) The Pension Board has adopted a separate Investment Policy. That Investment Policy is incorporated by reference and made a part of these Administrative Rules.

(b) The Investment Policy will be reviewed by the Pension Board on an annual basis, to determine if any changes are required.

PART 10 – TRUSTEE ETHICS AND EDUCATION

§1001.1 Purpose.

(a) The purpose of this section is to set forth a code of ethical conduct for the trustees of the Hoffman Estates Firefighters' Pension Fund and to establish procedures for the continuing education of the Board's trustees.

§1001.2 Standard of Care.

(a) The trustees are aware that they must discharge their duties to the Hoffman Estates Firefighters' Pension Fund solely in the interests of the Fund's participants and beneficiaries using the care, skill, prudence and diligence of a prudent person.

Cross-reference: 40 ILCS 5/1-109

§1001.3 Existing Law.

(a) Trustees recognize that they are governed by the provisions of the Illinois Pension Code, particularly Articles 1, 1A and 4 as well as these rules.

§1001.4 Conflicts of Interests.

(a) No trustee shall engage in any transaction or vote in any matter in which the trustee shall receive any direct or indirect personal gain. This shall not

include, however, trustees who are participants in the Fund, from voting on benefits or benefit increases that all Fund members would be entitled to.

(b) Prior to voting on any matter in which a trustee would reasonably believe a conflict of interest exists, the trustee shall publically announce the conflict and refrain from voting. The conflict statement required by law shall be recorded in the minutes of the Board meeting. In determining whether a conflict exists, trustees shall in all actions endeavor to avoid the appearance of impropriety.

§1001.5 Prior Communication with Benefit Applicants.

(a) Trustees shall not engage in prior communications with any applicant for benefits on any matter that is currently pending a hearing before the Board. This shall not preclude trustees from answering questions of general application to members where the information provided involves a restatement of benefits under the Pension Code and does not involve consideration of matters which will be presented in any evidentiary proceeding. All requests for information in conflict with this rule shall be referred in writing to the Pension Board's attorney for a written opinion.

(b) Trustees addressing benefit questions raised by Pension Fund participants and beneficiaries should clearly indicate that they are in no way capable of binding the Pension Board and that all such issues will be ultimately decided by the Board.

(c) In appropriate circumstances, a trustee may refer any questions to the Pension Board's attorney.

§1001.6 Prior Communications From Potential Providers or Contractors.

(a) All contacts from potential service providers or entities seeking to do business with the Board shall be communicated to the Board at its next quarterly meeting.

§1001.7 Communications with Investment Managers.

(a) All communications between individual trustees and investment managers shall be for informational purposes only. No individual trustee may bind or promise any consideration on behalf of the Pension Fund except as approved by the Board.

§1001.8 Applicability to Service Providers.

(a) All service providers or entities doing business with the Pension Board shall be bound by these ethical rules in their dealings with the trustees and the Pension Board.

(b) All such persons are responsible to the Pension Board and not to any individual trustees.

§1001.9 Prohibition of Consideration.

(a) No trustee shall accept any consideration, gratuity or compensation from any service provider except as to what is allowed under the Gift Ban Act.

(b) No trustee shall accept any consideration, gratuity or compensation from any participant or beneficiary seeking benefits.

Cross-reference: 40 ILCS 5/1-125(b)

§1001.10 Impartiality and Confidentiality.

(a) Each trustee will deal fairly, objectively and impartially with all fellow trustees, participants and beneficiaries.

(b) Each trustee shall maintain the confidentiality of Board actions as well as participant and beneficiary information.

§1002.1 Trustee Training.

(a) All trustees will attend at least sixteen (16) hours of continuing trustee education per year. Eight (8) hours of such continuing education must be ethics training covering fiduciary duties, prohibited transactions, investment issues, general ethics and any other curriculum that the Pension Board chooses to establish.

(b) All newly elected or appointed trustees must participate in a mandatory trustee certification training seminar that consists of thirty-two (32) hours of initial trustee certification at a training facility that is accredited and affiliated

with the a State of Illinois certified college or university. Such certification must take place within the first year of being appointed or elected.

(c) The Pension Board will annually certify each trustee's compliance with the ethical training requirements. The period determined by the Board for the completion of annual ethics training shall be as follows: January 1st through December 31st of each corresponding year.

(d) The training required under this Section shall be paid for by the Pension Fund

(e) Any Board Member who fails to comply with this Section shall be ineligible to serve on the Hoffman Estates Firefighters' Pension Board unless the Board member completes the missed training within six (6) months after the Board member was to have the training completed.

CHAPTER 11 - PURCHASE OF MILITARY SERVICE

§1100.1 Purpose

Pursuant to 40 ILCS 5/4-108(c)(1.5), the Hoffman Estates Firefighters' Pension Board will accept as creditable service for each firefighter, periods of service by such firefighter in the military, naval or air forces of the United States entered upon before beginning service as an active firefighter with the Hoffman Estates Fire Department.

§1100.2 Application

A firefighter shall make written application to the Pension Board to purchase his or her prior military service pursuant to Section 4-108(c)(1.5) of the Pension Code.

§1100.3 Prior Military Service

The prior military service must have been either regular active military service or *active* reserve of National Guard service. *Active* reserve of National Guard service shall include service when the firefighter was actually deployed on training, combat or combat support operations but shall not include training or other service periods of two weeks or less duration. The service must be documented on an official Form 214 (Certificate of Release or Discharge from Active Duty) or other official documentation

acceptable by the Board. The total amount of such creditable service shall not exceed 2 years.

§1100.4 Discharge Paperwork

The Pension Board shall review all release and/or discharge paperwork submitted by an applicant and may request additional information from officer or the U.S. military services. The Board, in its discretion, may accept periods of service for which an individual has been dishonorably discharged. Decisions to accept periods of military service with dishonorable discharge shall be considered on a case by case basis.

§1100.5 Contribution Calculations

The contribution to the pension fund required to purchase the prior military service shall be equal to the amount required by Illinois statute (Article 4 of the Pension Code) and the rules of the Board. The amount of the contribution shall be determined by a qualified actuary or other entity acceptable by the Board. The contribution required of the firefighter must be paid to the pension fund (i) within 5 years (60 months) from the date the Board approves the application to convert military service to creditable police service and (ii) before the officer terminates service in the fire department. The required contribution may be paid in a lump sum or in accordance with a schedule of installment payments authorized by the Board and the Illinois Administrative

Code covering installment payments for contributions required pursuant to a transfer of creditable service under 40 ILCS 5/4-118.1.

§1100.6 Proration

If the contribution that is required or elected has not been paid in full within the required time, the creditable service shall be prorated to an amount of time proportionate to the amount of contribution that has been paid. If the firefighter dies in service before payment in full has been made and before expiration of the 5 year payment period, the surviving spouse of the firefighter may elect to pay the unpaid amount on the firefighter's behalf within 6 months after the date of death, in which case the creditable service shall be granted as though the deceased firefighter had paid the remaining balance on the day before the date of death.

**PART 12 – BUYBACK OF UNPAID CONTRIBUTIONS
FOR BREAKS IN SERVICE**

§1200.1 Breaks in Service for Less Than 30 Days

In accordance with 40 ILCS 5/4-108(a), the Hoffman Estates Firefighter Pension Board will accept as creditable service for each firefighter, periods of service for furloughs without pay (including suspension days) lasting up to and including thirty (30) days time, so long as all applicable employee contributions are paid into the Pension Fund in accordance with all other applicable the provisions under this Chapter and Article 5 of the Illinois Pension Code.

§1200.2 Breaks in Service in Excess of 30 Days

In accordance with 40 ILCS 5/4-108(a), the Hoffman Estates Firefighter Pension Board will accept as creditable service for each firefighter, periods of service for furloughs without pay in excess of thirty (30) days due to a firefighter's personal illness or accident, regardless of length. Furloughs in excess of thirty (30) days for accident or illness of a firefighter's immediate relative shall not be counted.

§1200.3 Written Authorization

A firefighter shall make written authorization granting or denying the municipality permission to automatically deduct contributions for all periods

of unpaid break days lasting thirty (30) days or less in time.

§1200.4 Calculations & Withholdings: Breaks Less than 30 Days

The contribution amount required to purchase periods of unpaid break days of less than thirty days shall be computed in accordance with 40 ILCS 5/4-118.1. The required contribution for each unpaid break period by the police officer shall be withheld directly from the firefighter's payroll by the municipality (pursuant to written authorization), and shall be paid into the pension fund in accordance with the municipality's established policies and procedures for all other contribution withholdings.

§1200.5 Calculations & Withholdings: Breaks in Excess of 30 Days

Payment of service for unpaid break days in excess of thirty (30) days due to personal accident or illness shall be calculated in accordance with 40 ILCS 5/4-118.1 and repayment of those contribution amounts shall be determined on a case by case basis before the Pension Board.

§1200.6 Repayment Deadlines

In order for eligible unpaid break service time to count towards creditable service for pension purposes, all contributions must be paid into the Pension Fund prior to the firefighter's (i) termination or (ii) written application for a

retirement or disability pension.

§1200.7 Proration

If the contribution that is required or elected has not been paid in full within the required time, the creditable service shall be prorated to an amount of time proportionate to the amount of contribution that has been paid. If the firefighter dies in service before payment in full has been made and before expiration of the repayment or municipal withholding period, the surviving spouse of the firefighter may elect to pay into the fund the amount on the firefighter's behalf within 6 months after the date of death, in which case the creditable service shall be granted as though the deceased firefighter had paid the remaining balance on the day before the date of death.

§1200.8 "Thirty Days"

For purposes of this Chapter, "thirty (30) days" shall mean thirty consecutive days.

§1200.9 Interest

For purposes of this Chapter, buybacks of unpaid break days which are not automatically withheld by the municipality pursuant to the firefighter's written authorization shall be charged 6% compounded interest annually from the date the payroll deduction would have been made to the date the

money is paid.