

AUSTIN FIREFIGHTERS RELIEF AND RETIREMENT FUND

DEFERRED RETIREMENT OPTION PLAN
Revised 2007

DROP POLICY AND PROCEDURE

A. PURPOSE

The purpose of this policy and procedure is to provide a coordinated and fully documented process for applicants to enter the Deferred Retirement Option Plan ("DROP") of the Austin Firefighters Relief and Retirement Fund ("Fund"). In addition, this policy and procedure is intended to provide those associated with the process (the Fire Department of the City of Austin, Members of the Fund, the Fund's Board of Trustees ["Board"], and the Fund's administrative staff) with a detailed outline of the steps, time frames, and rules regarding DROP and the processing of applications for participation in DROP.

B. PROCEDURE

1. A Member who desires information concerning DROP, but is not yet prepared to participate in DROP may:
 - (a) request a non-binding verbal estimate of the amount of his or her DROP benefit; and/or
 - (b) schedule an appointment with the Fund's administrative office to discuss DROP, during which a non-binding estimate of the amount of his or her DROP benefit can be made, provided that the appointment has been scheduled sufficiently in advance.
2. A Member of the Fund who desires to participate in DROP must schedule an appointment to meet with the Fund's administrative office ("Appointment").
3. THE APPOINTMENT MUST BE SCHEDULED PRIOR TO A MEMBER'S INTENDED EFFECTIVE DATE OF PARTICIPATION IN DROP.
4. Attendance at the Appointment is a condition of participation in DROP.
5. The Appointment must be scheduled during the normal business hours of the Fund which are currently set at 8:00 a.m. to 5:00 p.m. Monday through Friday.
6. In order to timely process the Application, the Appointment should be scheduled not later than thirty (30) calendar days prior to the Member's intended effective date of participation in DROP.

7. No Appointment will be scheduled later than two (2) business days prior to the Member's intended effective date of participation in DROP. In the event the Member's intended effective date of participation in DROP falls on a weekend, the appointment cannot be made later than the preceding Wednesday of that business week.
8. If time permits, the Fund's administrative office will mail information pertaining to DROP participation to the Member prior to the Appointment.
9. A Member must bring the following items to the Appointment:
 - (a) a copy of his/her birth certificate;
 - (b) if married, a copy of his/her marriage certificate;
 - (c) a copy of his/her divorce decree if divorced since becoming a member,
 - (d) a copy of the birth certificate for any unmarried child under the age of twenty-two, other than a child who has been determined by the Board not to be dependent on the Member; and
 - (e) the social security numbers for any child described above and for the Member's current spouse, if any.
10. In the event a Member who is married desires to designate a beneficiary other than his or her spouse for DROP benefits, the Member's spouse must also attend the Appointment for the purpose of exercising his or her consent to such beneficiary designation;
11. During the Appointment, the System's administrative staff will:
 - (a) inform the Member of the contents of this policy and procedure, the application for participation in DROP ("Application"), the distribution election form ("Distribution Form"), the beneficiary designation form ("Beneficiary Form"), and the then-current form for resigning from the Austin Fire Department ("Resignation");
 - (b) respond to any questions the Member may have concerning the contents of this policy and procedure, Article 8 of the Act governing the Fund (Article 6243e.1, Vernon's Texas Civil Statutes), the Application, the Distribution Form, the Beneficiary Form, and the Resignation;
 - (c) respond to any questions the Member or the Member's spouse may have regarding the required spousal consent should the Member desire to designate a beneficiary other than his or her spouse for DROP benefits;

- (d) accept the Application should the Member choose to elect to participate in DROP;
 - (e) accept the Resignation should the Member choose to elect to participate in DROP; and
 - (f) accept the Distribution Form, should the Member (during the course of the Appointment) desire to elect the form in which his or her DROP benefit is to be distributed.
12. A member who elects to participate in DROP must sign the Application and the Resignation, initialing every page, and must verify in writing that he or she:
- (a) understands the terms and conditions of DROP, as expressed in this policy and procedure and as set forth in Article 8 of the Act governing the Fund;
 - (b) in making the election to participate in DROP has relied entirely on this policy and procedure and Article 8 of the Act governing the fund;
 - (c) is irrevocably resigning from the Austin Fire Department on a date not later than the date set forth in the Resignation, which date may not be later than the second anniversary of the date the Member will begin participation in DROP; and
 - (d) has had the opportunity to consult a tax advisor of the Member's own choosing.
13. In the event that the Member wishes to designate a beneficiary other than his or her spouse for DROP benefits, the Fund's administrative staff will obtain a notary public to witness the spouse's written consent to such designation.
14. A Member may designate a contingent beneficiary who will receive the DROP benefits in the event the first beneficiary dies prior to or within 72 hours after the death of the Member.
15. The Fund's administrative office will review the Application and Resignation, and the Distribution Form (if any) in order to determine whether they were properly and fully completed.
16. Upon full completion, the Application will be placed on the agenda for a Board meeting for approval. If granted, said approval shall be effective on the first day of the month following the date on which the Member filed the Application.
17. Within a reasonable period of time after Board approval of the Application, the Fund's administrative office will:

- (a) notify the Member of the Board's approval of the Application, including the exact calculation of the amounts of DROP benefits to be credited to the Member; and
 - (b) arrange for the separate accounting of the Member's DROP benefits.
- 18. The Fund's administrative office will only provide annual balance statements to DROP participants. The Fund's administrative office will also respond to other balance inquiries, but only if such inquiries are in writing, and only if made by a DROP participant pertaining to his or her DROP benefits, the designated beneficiary of such DROP participant, the spouse of such DROP participant, or the legal representative for each, respectively.
- 19. Should a DROP participant desire to change his or her designated beneficiary, the DROP participant must execute a Beneficiary Form. The Fund's administrative office will provide the DROP participant with a Beneficiary Form upon request. The effect of the Beneficiary Form is to revoke all prior designations of beneficiary for the DROP participant's DROP benefits. As a consequence, the DROP participant must again obtain the consent of his or her spouse if the beneficiary is other than the spouse, and such consent must be witnessed by a notary public. The signed original of the Beneficiary Form must be returned to the Fund's administrative office, and the Fund's administrative office will not accept a Beneficiary Form that designates a beneficiary other than the DROP participant's spouse unless such spousal consent is obtained and witnessed by a notary public.
- 20. A DROP participant who has or will terminate his or her employment with the City of Austin as a firefighter must schedule an appointment to meet with the Fund's administrative office prior to his or her receipt of any retirement pension or DROP benefit ("Exit Consultation").
- 21. If time permits, the Fund's administrative office will mail the DROP participant all forms necessary for receipt of a retirement pension and DROP benefits.
- 22. During the Exit Consultation, the DROP participant must be prepared to execute the following forms:
 - (a) Federal Income Tax Withholding; and
 - (b) application for direct deposit of retirement pension and DROP benefit.
- 23. The Fund's administrative office will review each of the forms described in Paragraph B22 in order to determine whether it was properly and fully completed.
- 24. The DROP participant must bring the following to the Exit Consultation:

- (a) a copy of any divorce decree if divorced subsequent to the filing of his or her Application with the Fund's administrative office; and
 - (b) a copy of a marriage certificate if married or remarried subsequent to the filing of his or her Application with the Fund's administrative office.
25. Subsequent to the Exit Consultation, the Fund's administrative office will place the DROP participant's application for a retirement pension on the Board agenda for the next following regularly scheduled Board meeting for approval, provided that it has been received at least ten (10) business days prior to that meeting.
26. Within a reasonable period of time after the Board's approval of the DROP participant's retirement pension, the Fund's administrative office shall:
- (a) Notify the DROP participant of the Board's approval of his or her application for a retirement pension;
 - (b) Notify the appropriate department of the City of Austin of the Board's approval of the DROP participant's application for a retirement pension; and
 - (c) Make all necessary arrangements for the payment of the DROP participant's retirement pension.
27. The Fund's administrative office will provide DROP Participants with Distribution Forms upon request. DROP participants may select, change, or modify their election on the Distribution Form at any time by executing a Distribution Form and delivering the original to the Fund's administrative office.
28. If the Fund's administrative office does not receive a Distribution Form from a DROP participant by the time such participant attains the age of seventy and one-half (70-1/2), such DROP participant will conclusively and irrevocably be deemed to have elected to receive his or her DROP benefits in the form of a single-payment distribution to be made to the participant not later than April 1 of the year after the member attained age 70-1/2.

C. GENERAL RULES

1. In order to be eligible to participate in DROP, a Member must, as of his or her intended date of participation in DROP:
 - (a) Have attained the age fifty (50) years and have at least ten (10) years of service credit in the Fund; OR
 - (b) Have at least twenty-five (25) years of service credit in the Fund, regardless of age.
2. A Member's election to participate in DROP is irrevocable.
3. If a Member who participates in DROP terminates his or her employment with the City of Austin as a firefighter and is subsequently re-hired as a firefighter, the Member may only rejoin the fund as a participant in DROP.
4. Because of the complexity in estimating the actuarial costs of DROP, the Act governing the Fund provides that (if there is a significant actuarial loss to the Fund) the Board -- not sooner than January 1, 2000 -- may:
 - (a) Reduce the interest paid on DROP accounts, or take other action that would reduce the future credits to DROP accounts, but only for all DROP accounts that are established after the effective date of such action by the Board; or
 - (b) Terminate the deferred retirement option plan for all Members who have not at that time established a DROP account.
5. As used in this policy and procedure, the effective date of a Member's retirement is the date (on or after the Member's separation from service as a firefighter) when a person has applied for and is eligible to begin receiving a service retirement benefit. The effective date of retirement also controls to whom survivor benefits are paid in the event of the death of a DROP participant.

D. DROP PARTICIPATION PRIOR TO RETIREMENT ("FORWARD DROP")

1. If a Member begins participation in DROP before the effective date of the Member's retirement, a separate DROP account shall be created in the Member's name in the Fund.
2. A Member who participates in DROP shall continue to make all contributions required under Section 10.01 of the Act governing the Fund until date of retirement. The Member's contributions under Section 10.01(c) that are made after the effective date of participation in DROP shall be credited to the Member's DROP account instead of to the Member's individual account with the Fund.

3. Each month after the effective date of a Member's participation in DROP and until the Member's retirement, an amount equal to the retirement annuity that the Member would have received under Section 5.03 of the Act governing the Fund for that month (if the Member had left active service and been granted a retirement annuity on the effective date of DROP participation) shall be credited to the Member's DROP account.
4. Amounts held in a Member's DROP account shall be credited monthly with interest at a rate equal to one-twelfth of five percent until the Member's retirement.
5. The amount credited monthly to the Member's DROP account:
 - (a) may not be increased as a result of any increases in the formula used in computing service retirement benefits under Section 5.04 of the Act governing the Fund that occurs after the effective date of the Member's election to participate in DROP;
 - (b) shall be increased by any annual cost-of-living adjustments under Section 9.04 of the act governing the Fund that occur between the effective date of the Member's election to participate in DROP and the effective date of the Member's retirement, but only as to amounts credited to the Member's DROP account after a cost-of-living adjustment; and
 - (c) is subject to the limitations prescribed by Section 9.03 of the Act governing the Fund (the limitations imposed by Section 415 of the Internal Revenue Code) (a copy of Section 9.03 is attached to this Policy and Procedure).
6. A Member who participates in DROP becomes ineligible for any disability benefit under Article 6 ("Disability Retirement Benefits") of the Act governing the Fund. (Under current federal income tax law, a pension payable by reason of disability may be entitled to favorable tax treatment.) Instead, if the Board determines that the Member would have been eligible for disability retirement, the Member shall receive a normal service retirement annuity as described in Section 5.04 of the Act governing the Fund, together with distributions from the Member's DROP account.
7. When a DROP participant terminates employment with the City of Austin as a firefighter, the Member will receive his or her retirement annuity, calculated as if the Member had terminated covered employment on the effective date of his or her participation in DROP. The Member also will receive authorized distributions from the Member's DROP account.

E. ESTABLISHMENT OF DROP ACCOUNT AT RETIREMENT ("BACK DROP")

1. Instead of electing to participate in DROP before actual retirement, a Member who is eligible for normal service retirement may elect to terminate active service as a firefighter and establish a DROP account on the effective date of retirement.
2. In that event, a separate DROP account shall be created in the Member's name in the Fund. On the effective date of the Member's retirement, an amount equal to the credits that the Member's DROP account would have received (including interest) if the Member had established the DROP account after becoming eligible for normal service retirement (but not for more than two years before the effective date of the Member's retirement) shall be credited to the Member's DROP account.
3. The amount credited to the Member's DROP account is subject to the limitations prescribed by Section 9.03 of the Act governing the Fund (the limitations imposed by Section 415 of the Internal Revenue Code) (a copy of Section 9.03 is attached to this Policy and Procedure).
4. The date used as the beginning date for making computations under paragraph E.2, above, shall be the effective date of that Member's election to participate in the DROP.
5. Upon retirement, the Member will receive his or her retirement annuity. The Member also will receive authorized distributions from the Member's DROP account.

F. DISTRIBUTIONS FROM A MEMBER'S DROP ACCOUNT

1. No DROP benefit will be paid (or otherwise distributed) to a DROP participant until the effective date of the Board's grant of a retirement annuity to the DROP participant.
2. No DROP benefit will be paid to a designated beneficiary of a DROP benefit until the effective date of Board approval of such payment. The Board will not approve the payment of DROP benefits to a designated beneficiary until such time as it receives sufficient documentation of the DROP participant's death.
3. No DROP distribution shall be made to any participant who has not attained age fifty-nine and one-half (59-1/2) at the time of the distribution unless either:
 - (a) the participant had attained age fifty (50) prior to terminating covered employment; OR
 - (b) The distribution is made in the form of a rollover to an individual retirement account or an eligible governmental deferred compensation plan as defined in Section 457 of the Internal Revenue Code.

4. To the extent permissible under federal tax laws, payment of a DROP participant's DROP benefit can be made in the following forms:
 - (a) a single-payment distribution made at a time selected by the DROP participant but not later than April 1 of the year after the participant attains 70-1/2 years of age; or
 - (b) in not more than four payments, which may be equal or unequal (as the DROP participant may determine), all of which must occur not later than April 1 of the year after the DROP participant attains 70-1/2 years of age.
5. All distributions from a DROP account are subject to a mandatory twenty percent (20%) withholding for federal income tax unless the withdrawal is transferred directly by the Fund to an Individual Retirement Account (IRA), an Individual Retirement Annuity, a qualified trust, or an eligible governmental deferred compensation plan as defined in Section 457 of the Internal Revenue Code.
6. A DROP participant can select the manner in which the participant will receive his or her distribution(s) by filing a completed Distribution Form with the Fund's administrative office.
7. Should the DROP participant fail to file a Distribution Form as to all amounts in the participant's DROP account with the Fund's administrative office by the time the participant attains age seventy and one-half (70-1/2), such DROP participant shall be deemed to have elected to receive his or her DROP benefits in the form of a single-payment distribution to be made to the participant not later than April 1 of the year after the member attained age 70-1/2.
8. A DROP participant will be allowed to revoke or amend his or her Distribution Form at any time before the DROP participant attains the age of seventy and one-half (70-1/2) by filing a new Distribution Form with the Fund's administrative office.
9. Any filing of a Distribution Form, whether an original filing, a revocation of an earlier filing, or an amendment to an earlier filing, will not take effect until thirty (30) days after it has been received and accepted by the Fund's administrative office. Therefore, no distribution can be made until thirty (30) days after a Distribution Form has been received and accepted by the Fund's administrative office.
10. All distributions of DROP benefits will be made on the last business day of the month.

G. DESIGNATION OF BENEFICIARIES

1. A DROP participant will have the opportunity to designate a beneficiary of his or her DROP benefits when filing the Application. In all other circumstances, the DROP participant must designate a beneficiary on the Beneficiary Form. The DROP participant may designate a contingent beneficiary on the Application Form and/or the Beneficiary Form; in that event, the contingent beneficiary will receive DROP benefits in the event the first selected beneficiary dies prior to or within 72 hours after the death of the DROP participant.
2. The Fund's administrative office will provide a Beneficiary Form upon request of the DROP participant.
3. If a Member is married at the time of the designation, a designation of a beneficiary other than the Member's spouse is valid only if the spouse consents to the designation in writing on the same form that is used to designate the beneficiary. The consent of a spouse must be notarized before the Fund can accept it.
4. If a DROP participant dies while in active service or if the participant has not filed at the Fund's administrative office a Distribution Form that provides how all of the DROP account balance is to be distributed, distributions to the designated beneficiary:
 - (a) will begin not more than one year after the date of the participant's death;
 - (b) will be made either as a single-payment distribution of the participant's DROP account balance or in not more than four equal annual installments over a period of not more than 37 months, as the designated beneficiary may elect on a Distribution Form signed by the designated beneficiary (or the designated beneficiary's legal guardian); and
 - (c) will be made as a single-payment distribution of the participant's DROP account balance if the designated beneficiary has not filed an election within one year after the participant's death.
5. If a DROP participant dies after terminating active service and has filed an election with the Board to be paid in not more than four (4) equal annual installments over a period of not more than 37 months, the balance of the participant's DROP account shall be distributed to the designated beneficiary in the manner that the participant selected.
6. If the DROP participant has not designated a beneficiary to receive distributions from the participant's DROP account, or if neither the beneficiary nor the contingent beneficiary survives the participant by at least 72 hours, the participant's DROP account shall be distributed in a single-sum payment as soon as administratively possible after the participant's death to any surviving spouse who survives the participant by at least 72 hours, if any, or to the participant's estate if there is no surviving spouse.

7. A DROP participant's DROP benefit is subject to the community property laws of the State of Texas, and is therefore subject to division by a court of law pursuant to a qualified domestic relations order. The Fund will accept a qualified domestic relations order that properly provides for a division of a DROP participant's DROP benefit.

H. RETIREMENT BENEFIT PAYABLE TO DROP PARTICIPANT

1. In order to maintain the actuarial soundness of the Fund, the retirement benefit of a DROP participant effectively is "frozen" based upon the Member's credited service and compensation on the effective date of DROP participation, as more particularly described in paragraph H.2, below.
2. The retirement benefit payable under the Act governing the Fund to a person who participates in the DROP:
 - (a) may not be increased as a result of any increase in the formula used in computing service retirement benefits under Section 5.04 of the Act governing the Fund that occurs after the effective date of the Member's election to participate in the DROP;
 - (b) may not be increased as a result of any increase in the Member's compensation that occurs after the effective date of the Member's election to participate in the DROP;
 - (c) shall be increased by any annual cost-of-living adjustments under Section 9.04 of the Act governing the Fund that occur between the effective date of the Member's election to participate in the DROP and the effective date of the Member's retirement;
 - (d) may not be increased for additional service credit after the effective date of the member's election to participate in DROP; and
 - (e) is subject to the limitations prescribed by Section 9.03 of the Act governing the Fund (the limitations imposed by Section 415 of the internal Revenue Code) (a copy of Section 9.03 is attached to this Policy and Procedure).