

CHARLOTTE FIREFIGHTERS' RETIREMENT SYSTEM DISABILITY REGULATION
(Approved by Charlotte City Council on June 8, 2026)

SECTION 1 - GENERAL

The Board of Trustees for the Charlotte Firefighters' Retirement System (the "Board") functions as an administrative agency and is charged with administering the provisions of the Charlotte Firefighters' Retirement System (CFRS) Act which, among other things, provides retirement, disability and survivor benefits for the uniformed employees of the Charlotte Fire Department in compliance with the provisions of the CFRS Act. This regulation sets forth the rules applicable for Members who retire on or after <adoption date> for the administration of any "Application for Disability Retirement In the Line of Duty" or any "Application for Disability Retirement Not In the Line of Duty" filed pursuant to the provisions of Section 19 or Section 20, respectively, of the CFRS Act.

SECTION 2 - DEFINITIONS

Disability shall mean either Partial Disability or Permanent Disability as defined below.

- A. Partial Disability means that a Member is unable to perform the substantial and material duties of his or her job classification in the Charlotte Fire Department but is able to engage in other gainful occupation in which he or she might reasonably be expected to engage, with due regard to his or her education, training and/or experience:
 - (i) By reason of an injury, accident or occupational disease arising out of and in the course of his or her actual performance of duty with the Charlotte Fire Department, and has a whole-body impairment rating between 10% and 50%.
 - (ii) By reason of an injury, accident or disease that did not arise out of and in the course of his or her actual performance of duty with the Charlotte Fire Department and has a whole-body impairment rating between 10% and 65%.
- B. Permanent Disability means that a Member is unable to perform the substantial and material duties of his or her job classification in the Charlotte Fire Department:
 - (i) By reason of an injury, accident or occupational disease arising out of and in the course of his or her actual performance of duty in employment with the Charlotte Fire Department, and has a whole-body impairment greater than 50%; or
 - (ii) By reason of an injury, accident or disease that did not arise out of and in the course of his or her actual performance of duty in employment with the Charlotte Fire Department and has a whole-body impairment rating greater than 65%.

SECTION 3 – EXCLUSIONS

- A. Disability shall not include the following:
 - (i) Injuries, accidents and/or diseases resulting from or attributed to gross negligence of a Member;
 - (ii) Occupational injuries, accidents and/or diseases resulting from or attributed to a Member's habitual failure to follow Charlotte Fire Department (CFD) Operational and/or Safety procedures; habitual failure is defined as 4 offenses in the 5 years prior to the debilitating incident;

- (iii) Injuries, accidents, and/or diseases resulting from and/or attributed to a Member's participation in war, declared or undeclared, or any act of war. Notwithstanding the foregoing, disability includes (i) injuries, accidents, and/or diseases resulting from and/or attributed to Members serving active duty with the United States military or its reserves, or (ii) Members who in the course of normal work duties and responsibilities respond to emergency calls resulting from any act of war.
 - (iv) Injuries, accidents and/or diseases resulting from and/or attributed to a Member's active participation in a riot;
 - (v) Injuries, accidents and/or diseases resulting from and/or attributed to a Member's intentionally self-inflicted injuries; or
- B. Injuries, accidents and/or diseases resulting from and/or attributed to a Member's participation in committing or attempting to commit a crime under state or federal law.

SECTION 4 – DISABILITY RETIREMENT

- A. A Member who has applied for disability retirement in the line of duty, pursuant to Section 19 of the CFRS Act:
- (i) May be retired by the Board of Trustees with a Partial Disability, as defined in Section 2 of this regulation, provided that, after a medical examination of the Member, by or under the direction of the Medical Board, the Medical Board certifies to the Board in writing that the Member is unable to perform the substantial and material duties of his or her job classification in the Charlotte Fire Department due to an injury, accident or occupational disease arising out of and in the course of his or her actual performance of duty with the Charlotte Fire Department and has a total body impairment rating between 10% and 50%.
 - (ii) A Member who has applied for disability retirement in the line of duty, pursuant to Section 19 of the CFRS Act, may be retired by the Board of Trustees with a Permanent Disability, as defined in Section 2 of this regulation, provided that, after a medical examination of the Member, by or under the direction of the Medical Board, the Medical Board certifies to the Board in writing that the Member is unable to perform the substantial and material duties of his or her job classification in the Charlotte Fire Department due to an injury, accident or occupational disease arising out of and in the course of his or her actual performance of duty with the Charlotte Fire Department and has a total body impairment rating greater than 50%.
- B. A Member who has applied for disability retirement not in the line of duty pursuant to Section 20 of the CFRS Act:
- (i) May be retired with a Partial Disability, as defined in Section 2 of this regulation, provided that, after a medical examination of the Member, by or under the direction of the Medical Board, the Medical Board certifies to the Board in writing that the Member is unable to perform the substantial and material duties of his or her job classification in the Charlotte Fire Department by reason of an injury, accident or disease that did not arise out of and in the course of his or her actual performance of duty with the Charlotte Fire Department and has a total body impairment rating between 10% and 65%.

- (ii) May be retired with a Permanent Disability, as defined in Section 2 of this regulation, provided that, after a medical examination of the Member, by or under the direction of the Medical Board, the Medical Board certifies to the Board in writing that the Member is unable to perform the substantial and material duties of his or her job classification in the Charlotte Fire Department by reason of an injury, accident or disease that did not arise out of and in the course of his or her actual performance of duty with the Charlotte Fire Department and has a total body impairment rating greater than 65%.

SECTION 5 - PREHEARING REQUIREMENTS

- A. A Member who has applied for a disability retirement pursuant to Section 19 or Section 20 of the CFRS Act shall be responsible for submitting to the Administrator all medical evidence and documentation related to the injury, accident, or disease that he or she wishes to have evaluated by the Medical Board prior to the medical examination or reexamination by the Medical Board but no later than thirty (30) calendar days after the application date. The Administrator shall have authority to extend this time period for good cause shown by the Member. For any medical services incurred after the application date but before the hearing date, the Member may submit documentation to the Board at least five (5) business days prior to the hearing.
- B. Upon receipt of medical records related to the injury, accident, or disease submitted by the Member, the Administrator shall arrange for a medical examination of the Member by or under the direction of the Medical Board. The Administrator shall provide all submitted medical records to the Medical Board prior to the examination/re-examination.
- C. After such medical examination of the Member, the Medical Board shall provide a written medical report to the Administrator certifying that:
 - (i) The Member does or does not have a Permanent Disability, as defined in Section 2, that prevents the Member from performing the substantial and material duties of his or her job classification with the Charlotte Fire Department by reason of an injury, accident or disease. For a Permanent Disability, the Medical Board must certify a whole-body impairment rating greater than 50% for an In-Line-of-Duty Disability, or greater than 65% for a Not-In-Line-of-Duty Disability; or
 - (ii) The Member does or does not have a Partial Disability that prevents the Member from performing the substantial and material duties of his or her job classification with the Charlotte Fire Department by reason of an injury, accident, or disease. For a Partial Disability, the Medical Board must certify a whole-body impairment rating between 10% and 50% for an In-Line-of-Duty Disability, or between 10% and 65% for a Not-In-Line-of-Duty Disability.
- D. Within fifteen (15) business days of receipt of the Medical Board's medical report as specified in subdivision C of this section, the Administrator shall provide a copy of such medical report to the Member. Within ten (10) business days of providing the medical report to the Member, the Administrator shall make a written request to the Chairperson of the Board of Trustees (Chairperson) for a Board Hearing pursuant to the provisions of Section 6 of this regulation.
- E. A member of the Medical Board, preferably the examining physician on the application, shall appear at the Board Hearing to respond to any questions of a medical nature or to render any medical opinion necessary to clarify the medical report.

- F. The determination by the Board of Trustees that a Member is not entitled to disability retirement benefits under this section shall not prohibit such Member from filing another "Application for Disability Retirement In the Line of Duty" or "Application for Disability Retirement Not In the Line of Duty" at a later date, provided the application is based on additional or different facts bearing on the question of his or her disability.

SECTION 6 - HEARINGS BEFORE THE BOARD OF TRUSTEES

- A. Board hearings pursuant to these regulations shall be conducted in closed session pursuant to N.C.G.S. § 143-318.11. The Chairperson shall preside over all hearings and shall explain the Board's rules regarding hearings to all parties.
- B. The Chairperson shall schedule the hearing not less than thirty (30) days nor more than sixty (60) days from the date of receipt of the Administrator's request and shall notify the Member, the Administrator, and any party in interest by any delivery means that provides proof of receipt of the scheduled hearing date. Should the Administrator or Member desire a hearing date other than that set by the Board within the time period set forth above, the Member or Administrator shall file a written request for a change of hearing date setting forth the reasons for such request.
- C. The Chairperson is empowered to approve or disapprove such requests; provided such requests are received by the Chairperson at least seven (7) days prior to the date set for the hearing. For good cause, the Chairperson may set a hearing date other than that prescribed above and may continue the hearing from time to time. The determination of good cause shall be the decision of the Chairperson.
- D. The Chairperson shall have the power to administer oaths. The Member or the Administrator, as well as the Board, shall have the power to compel the production of documents and other evidence. The Member, Administrator, and Board shall be responsible for attaining witnesses and ensuring their presence at the hearing. The Member shall be responsible for any costs incurred by the Member or any of the Member's witness's attendance at the hearing.
- E. The Board is not a court but has adopted certain due process considerations, which shall be adhered to. During the hearing, the Chairperson functions as a presiding authority over all matters of conduct, procedure, and the admissibility of evidence. The Administrator and the Member shall have the right to present relevant evidence to the Board regarding whether or not the Member has a Permanent Disability or Partial Disability as defined in Section 2 of these regulations. The Board is entitled to resolve disputed questions of fact and apply rules and regulations to its findings of fact much in the manner of a court.
- F. The Member may be present at all evidentiary portions of the hearing, may retain counsel to represent him or her at the hearing, may call witnesses, may present documentary or real evidence, and may cross-examine those witnesses produced by any other party. The North Carolina Rules of Evidence, generally, shall be applied by the Board but its provisions shall be liberally construed. Technical objections are discouraged.
- G. All witnesses before the Board shall be sworn or shall affirm. In all cases concerning an application for disability retirement benefits, the Member shall have the burden of proof, except as provided by law. In cases concerning the termination or reduction of disability benefits, the Administrator shall have the burden of proof. The Administrator shall present evidence showing the jurisdiction of the Board, unless otherwise stipulated. Typically, the order of questioning of a witness shall be direct examination and cross-examination by the parties, followed by questions that may be asked by the Board.

- H. At the conclusion of all evidence, the parties will be allowed to make closing arguments before the Board retires to deliberate. The Chairperson may set time limits on closing arguments. After the evidentiary portion of the hearing is concluded, the Board will consider the evidence and will make findings of fact together with a statement of the action taken by the Board based on its findings of fact.
- I. The decision of the Board, at the discretion of the Board, shall be rendered at the close of the hearing or within seven (7) business days following the close of the hearing. Regardless, the Member and Administrator shall be served with a copy of the decision in person or by any delivery method that provides proof of receipt.

SECTION 7 - GENERAL POWERS OF THE BOARD

- A. After considering all the evidence, the Board is authorized to issue an order:
 - (i) Upholding the determination of the Medical Board; or
 - (ii) Modifying the determination of the Medical Board; or
 - (iii) Referral of medical evidence for review and redetermination of the Medical Board; or
 - (iv) Rejecting the determination of the Medical Board and imposing such other disposition of the matter as is deemed just and proper under the provisions of this Section; or
 - (v) Suspending or terminating benefits when it determines that the Retiree has not adhered to the requirements set forth in these regulations.
- B. The Board may, among other things, determine that the medical condition of the Member does not exist or no longer exists.
- C. The Board shall have the authority, pursuant to Section 9 of these regulations, to arrange for the reexamination of a Member who has retired pursuant to Section 19 or 20 of the CFRS Act.

SECTION 8 -APPEAL

The Member, the Administrator, or any person filing on his or her behalf, may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notice of appeal, in writing, to the Superior Court within ten (10) business days from the entry of the order. Assignments of error must be filed with the court and served upon the Board within thirty (30) business days after the entry of the order. The appeal to the Superior Court would be upon the record of the proceedings before the Board at its hearing and shall be in the nature of a petition for certiorari.

SECTION 9- REEXAMINATION

- A. After the Board has approved a Member's retirement pursuant to Section 19 or 20 of the Act, the Administrator shall have the authority and may require such Retiree, who does not meet the requirements for a service retirement pursuant to Section 15 of the CFRS Act, to undergo a medical reexamination at any time not to exceed one reexamination per year, by or under the direction of the Medical Board. If the Administrator requires a Retiree's reexamination, the Retiree shall be responsible for submitting to the Administrator all new medical evidence and documentation related to his or her Partial Disability or Permanent Disability as provided in Section 5A of these regulations. After the Medical Board's reexamination, the Medical Board shall provide a written medical report to the Administrator certifying that:

- (i) The Partial Disability or Permanent Disability for which the Retiree was retired no longer exists; or
 - (ii) The Partial Disability or Permanent Disability for which the Retiree was retired still exists and the Retiree is still unable to perform the substantial and material duties of his or her job classification of the Charlotte Fire Department. If the Medical Board determines that the Partial Disability or Permanent Disability has improved sufficiently to warrant a change to the percentage of whole-body impairment, as defined in Section 2 of this regulation, the Board may consider that change.
- B. Within fifteen (15) business days of receipt of the Medical Board's report, as specified in subdivision A of this section, the Administrator shall provide a copy of such medical report to the Retiree. If the report documents a change in the Partial Disability or Permanent Disability of the Retiree that would potentially change the amount of the Retiree's disability retirement benefit, within ten (10) business days of providing the medical report to the Retiree, the Administrator shall request a Board Hearing pursuant to the provisions of Section 6 of this regulation. If the report shows no change to the Partial Disability or Permanent Disability of the Retiree that would change the amount of the Retiree's disability retirement benefit, the Administrator shall report the Medical Board's findings at the next regular Board meeting for ratification.
- C. If a Retiree does not comply with the requirements of Section 5A for submittal of medical records or the reexamination by the Medical Board pursuant to Section 5B, the Retiree's benefits may be suspended until such time that the Retiree complies. The Retiree will receive any suspended benefits once the medical records are provided and/or the reexamination by the Medical Board is completed.
- D. Refusal by a Retiree to submit to a medical reexamination pursuant to this section shall cause all retirement benefits to cease forthwith and such person shall be entitled to:
 - (i) Apply for reimbursement of the balance, if any, of his or her contributions to the CFRS in the same manner and in all respects as in Section 10 of the CFRS Act; or
 - (ii) If the Retiree had five or more years of Membership Service Credit as a Member of the CFRS, defer his or her Accrued Benefit in the same manner and in all respects as in Section 11 of the CFRS Act.

SECTION 10- REINSTATEMENT

- A. If a Retiree returns to work with the Charlotte Fire Department as an eligible Member of the CFRS, as defined in the CFRS Act, the pension benefit shall cease upon reinstatement of employment.
 - (i) Where a reinstated Member serves at least five years after his reinstatement before retirement, his or her total Accrued Benefit upon retirement shall be computed in accordance with the CFRS Act in effect on the date he or she reaches five years of service.
 - (ii) Where a reinstated Member serves less than five years after his or her reinstatement before retirement, his or her total accrued benefit will be the Accrued Benefit earned at Disability Retirement date. For the service earned after the reinstatement date, the Member shall be eligible for a Return of Contributions as per Sections 10 and 11 of the Act, as applicable.

SECTION 11 - OTHER

- A. Disability Retirement Benefits: A Retiree who is retired pursuant to Section 19 or Section 20 of the CFRS Act shall receive the disability retirement benefits specified in either Section 19(c) or Section 20(c) of the Act, as appropriate, except:
- (i) A Retiree who has a Partial Disability as defined in Section 2A of these regulations and retires pursuant to Section 19 of the CFRS Act shall receive a percentage of the disability retirement benefits provided by Section 19(c) of the Act in an amount equal to twice the percentage of disability rating provided in the Board's Order. If twice the percentage of disability rating is greater than 50%, the Retiree will be considered to have a Permanent Disability and shall receive the full benefit determined pursuant to Section 19(c) of the CFRS Act.
 - (ii) A Retiree who has a Partial Disability as defined in Section 2A of these regulations and retires pursuant to Section 20 of the CFRS Act shall receive a percentage of the disability retirement benefits provided by Section 20(c) of the CFRS Act equal to the whole-body impairment rating between 10% and 65% approved by the Board. For a whole-body impairment rating greater than 65%, the Retiree will be considered to have a Permanent Disability and shall receive the full benefit determined pursuant to Section 20(c) of the CFRS Act.
 - (iii) When a Retiree receiving disability retirement benefits meets the age and Membership Service Credit requirements for a service retirement pursuant to Section 15 of the CFRS Act, the Retiree shall receive the greater of his or her disability retirement benefit or his or her Accrued Benefit as defined by the CFRS Act determined as of the last date of active employment with the Charlotte Fire Department