

**DECLARATION OF STANDARDS AND PROCEDURES  
BY THE BOARD OF TRUSTEES OF  
TOLEDO FIREFIGHTERS WELFARE FUND**

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**KNOW ALL MEN BY THESE PRESENTS, that**

**WHEREAS, the Toledo Firefighters Welfare Fund (the "Plan") is an employee welfare benefit plan established, maintained and operating to provide a full range of hospital, medical, surgical, dental, optical, prescription drug, nonoccupational temporary disability, and death benefits to employees of the City of Toledo who are members of the Toledo Fire Department and to their spouses and dependent children; and**

**WHEREAS, the Plan is operated and administered under the guidance and direction of a nine-person Board of Trustees (the "Trustees"); and**

**WHEREAS, the Trustees' mandate is to operate and administer the Plan solely in the interests of the Plan participants, for the exclusive purpose of maximizing benefits and defraying the reasonable cost of necessary expenses, as prudent employee benefit plan fiduciaries, and in accordance with the Plan's documents; and**

**WHEREAS, the Trustees, at a duly called, convened and held meeting, adopted an amendment to the Plan providing for mandatory working spousal coverage in the employee health and welfare plan of his or her employer, upon the terms, conditions and provisions adopted by the Trustees; and**

**WHEREAS, a part of the enactment of working spousal coverage calls for the Chairman of the Board of Trustees to appoint a Hardship Committee (the "Committee") to hear appeals by Toledo Firefighters and their working spouses from the strict application and enforcement of the working spousal coverage program adopted by the Trustees; and**

**WHEREAS, the Chairman has appointed three (3) Trustees to serve on the Committee; and**

**WHEREAS, the Committee has prepared certain standards and procedures to govern the functioning of the Committee and its exercise of decision-making discretion, which standards and procedures are set forth below; and**

**WHEREAS, the Trustees of the Plan have reviewed the standards and procedures to govern the functioning of the Committee and the exercise of decision-making discretion, and the Trustees have approved the same as proposed and presented.**

**NOW, THEREFORE, in consideration of these premises and by virtue of the authority granted to it by the Trustees of the Plan and by the Plan document, the Trustees hereby declare the following standards and procedures to govern the Committee's operation:**

A. Mandate

In its deliberations and decisions, the Committee shall seek to carry out the mandate of the full Board of Trustees as expressed in its adoption of the working spousal coverage program. The mandate of the full Board of Trustees is to act in the best interests of all Plan participants and their beneficiaries to provide the maximum scope and amounts of benefits and coverages, consistent with the preservation of the fiscal integrity of the Plan. The mandate for the Committee is to carry out the foregoing intent with a sense of balance and equity to ensure that in the interpretation and application of the working spouse program no untoward hardship, financial or otherwise, is imposed upon any Firefighter or the spouse and children of a Firefighter.

B. Procedures

1. Any Toledo Firefighter and/or working spouse who feels aggrieved by the application and enforcement of the Trustees' working spousal coverage program and who feels that the enforcement will work an untoward hardship on the Firefighter, the spouse and their family may appeal to the Committee for relief.

2. A Toledo Firefighter and/or working spouse who feels aggrieved and seeks relief may make a written appeal to the Committee on a form provided by the Administrative Manager of the Plan. The Firefighter or spouse shall set forth all of the facts of the working spouse's employment, coverage under his or her employer's plan, all relevant monetary factors (including the spouse's net, after-tax income, and the total monthly cost of the coverage and benefits), and any and all other facts that the Firefighter and/or working spouse feels are relevant and material to the appeal. They may attach to the appeal such documents that they feel are relevant and material to their appeal, which will be copied for use by the Committee and for the permanent files and records of the Plan, and the originals will be returned to them. The Committee may request that the appellant Firefighter and/or spouse provide to it any and all further information that the Committee may, in its discretion reasonably applied, deem necessary and appropriate for its consideration of the appeal and the rendering of a fair and equitable determination. All information contained in the appeal, including documents attached thereto, shall be deemed confidential and not revealed to anyone other than the Trustees of the Plan and the administrative staff, as necessary.

3. If the Firefighter and the working spouse desire, they may have a private and confidential meeting with the Committee to orally present their position that the application of the rules of the working spousal program creates a hardship for them and relief they believe is fair and reasonable. The request for a hearing shall be noted on the appeal form provided by the Plan that is completed and submitted by the Firefighter and the working spouse. The Committee may require that a hearing is necessary and appropriate to its rendering of a fair determination.

4. If the Firefighter and spouse do not request a hearing before the Committee, the Administrative Manager of the Plan shall provide copies of the appeal form, with all attachments, to the members of the Committee promptly following the filing of the appeal, together with any and all data in the records of the Plan that the Committee might deem relevant and material to its deliberations. The Administrative Manager shall arrange for a meeting of the

Committee within twenty (20) days after the Committee has received all information provided by the Administrative Manager and/or requested by the Committee. A member of the Committee who is unable to attend the meeting in person may participate by telephone, but must participate in that mode during the entire meeting.

5. If the Firefighter and spouse desire a hearing before the Committee, in addition to providing the members of the Committee with the information provided for in Paragraph 4 above, the Administrative Manager shall arrange for a hearing at a mutually convenient time to be held at the Plan office within twenty-one (21) days after the appeal has been filed.

6. Without limiting the generality of the foregoing, the hearing shall be conducted in accordance with the following procedures:

(a) The Firefighter and spouse may be accompanied by an attorney at law licensed to practice in Ohio or a non-attorney spokesperson (their "representative"), but at the sole expense of the Firefighter and spouse.

(b) The representative, if any, retained by the Firefighter may actively participate in the hearing by speaking, asking questions of the Administrative Manager, presenting the position of his clients, etc., subject to terms reasonably established and applied by the Committee.

(c) The hearing shall be private and confidential. The only persons who shall be present at the hearing are:

- (i) the three (3) members of the Committee;
- (ii) the Administrative Manager of the Plan;
- (iii) the Firefighter and spouse;
- (iv) the Plan's legal counsel; and
- (v) the Firefighter and spouse's representative.

(d) No stenographic record of the hearing shall be made, but the Administrative Manager shall tape record the proceedings. After the conclusion of the proceedings, the Administrative Manager shall provide a copy of the tape to the Firefighter and spouse and their representative, if any:

(e) At the hearing, the Firefighter and spouse (or either of them) or by their representative, if any, shall present their arguments to the Committee on why they feel aggrieved, why they believe the imposition and enforcement of the working spouse rules create a hardship for them, and what relief they seek. At the hearing, the Firefighter, spouse and/or their representative may present to the Committee any and all written documents, records or reports they wish to support

their position. These written materials shall be considered by the Committee in reaching its decision.

(f) At the hearing, the formal rules of evidence shall not be applicable, but shall be generally followed in the interest of fairness and accuracy in the presentation of the appeal.

(g) At the hearing, the members of the Committee or its legal counsel may question the Firefighter, spouse or their representative.

(h) It is not anticipated that the Firefighter, spouse or their representative will produce witnesses to testify before the Committee. However, if they desire to do so, they shall advise the Administrative Manager at least forty-eight (48) hours in advance of the hearing date and time of:

(i) the names, addresses and relationships to the Firefighter and/or spouse of all persons they seek to produce as witnesses;

(ii) a summary of what the testimony is believed to be;  
and

(iii) the length of time to be allotted to each witness.

Any and all costs of the witness(es) for their time preparing for and testifying before the Committee shall be at the sole and exclusive expense of the Firefighter and/or spouse. The Committee reserves the right to limit the testimony or to reject any offered witnesses if the Committee, in its sole discretion but reasonably applied, shall determine that the testimony to be offered is neither relevant nor material to the proceeding.

(i) At the conclusion of the hearing, the representative for the Firefighter and/or spouse, if any, may make a closing argument to the Committee.

(j) Within twenty (20) days following the conclusion of the hearing, the Committee shall render its decision on the appeal. The opinion shall be in writing and shall contain a clear and concise statement of:

(i) the Committee's decision; and

(ii) the rationale for its decision.

Copies of the decision shall be provided to the Firefighter and spouse and their representative, if any.

7. If, after the Committee has rendered its decision, the Firefighter and spouse still feel aggrieved and feel that the application and enforcement of the working spouse

rules will result in a financial hardship to them, they may appeal the decision of the Committee to the full Board of Trustees.

8. Without limiting the generality of the foregoing, the following procedures shall apply to the appeal to the full Board of Trustees:

(a) The Firefighter and spouse shall make a written appeal to the full Board on a form provided by the Administrative Manager of the Plan. The appeal shall be on the record presented to and made in the appeal to the Committee, but the firefighter and/or spouse may augment the record as they deem necessary. The Firefighter or spouse shall set forth all of the facts of the working spouse's employment, coverage under his or her employer's plan, the monetary factors (including the spouse's net, after-tax income, the total monthly cost of the coverage and benefits), and any and all other facts that the Firefighter and/or working spouse feel are relevant and material to the appeal. All of the materials presented to the Committee, including a copy of the tape of the proceeding, shall be made available to all Trustees by the Administrative Manager of the Plan. The Firefighter and spouse may attach to the appeal such documents that they feel are relevant and material to their appeal, which will be copied for use by the Committee and for the permanent files and records of the Plan, and the originals will be returned to them. All information contained in the appeal, including documents attached thereto, shall be deemed confidential and not revealed to anyone other than the Trustees of the Plan and the administrative staff, as necessary. The three (3) Trustees who are members of the Committee and who rendered the initial determination shall participate in the determination of the full Board of Trustees.

(b) The Administrative Manager shall provide to all Trustees a copy of the tape of the appeal hearing before the Committee, copies of all written information considered by the Committee in rendering its opinion, and a copy of the opinion.

(c) The Firefighter and spouse shall not be entitled to a hearing before the full Board of Trustees unless the Trustees shall determine, in their sole and uncontrolled discretion, but subject to their mandate as stated above, that it is necessary or desirable for a hearing to be held.

(d) The appeal shall be considered and acted upon by the full Board of Trustees at its next regularly scheduled quarterly meeting. The Administrative Manager of the Plan shall advise the Firefighter and spouse of the date of that meeting and/or any change in the date.

(e) Within thirty (30) days following their meeting, the Trustees shall render their decision, with the rationale therefor, in written form. A copy of the decision shall be sent to the Firefighter and spouse and to their legal counsel, if any, promptly after it is rendered.

- (f) The Administrative Manager shall immediately implement and enforce the decision of the Board of Trustees of the Plan.

9. Any rules and procedures necessary to the prudent and proper operation and implementation of this appeals process shall be proposed by the Committee and adopted by the full Board of Trustees and shall be applicable to any and all proceedings, including those pending when the additional rules and procedures were adopted.

**C. Background Considerations and Rational of Working Spouse Program**

1. The Trustees reaffirm their mandate to operate and administer the Plan solely in the interest of the Plan participants, for the exclusive purpose of maximizing benefits and defraying the reasonable cost of necessary expenses, as prudent employee benefit plan fiduciaries, and in accordance with the Plan's documents.

2. While acknowledging that it is impossible to contemplate every hardship situation that may arise, the Trustees desire to set forth for the benefit of the Toledo Firefighters who participate in the Plan and for their spouses who currently or may in the future seek employment outside of the home the general rules and rationale that will be applied by the Committee and the Board of Trustees in ruling on appeals by Firefighters and spouses from the application and enforcement of the working spouse rule.

3. **The motivation for the adoption of the working spouse rules was multifold, and those principles shall be borne in mind and consistently applied to all situations:**

(a) The Trustees are fiduciaries who must act for the sole and exclusive benefit of all Plan participants and their beneficiaries, without regard to personal preferences.

(b) The Trustees must maintain and preserve the fiscal integrity of the Plan so that future Toledo Firefighters, not yet on the Toledo Fire Department force, will have the benefits and coverages currently afforded to Plan participants.

(c) The Trustees must act in a consistent manner, treating all Plan participants and their dependents who are similarly situated the same.

(d) The Committee and the full Board of Trustees must act to apply and implement the working spouse rules so long as those rules constitute a part of the Plan documents. If those rules or any portion thereof are in the future inconsistent with the mandate of the Trustees and their fiduciary duties, then the rules must be revised; however, until that time, the rules must be constantly and consistently enforced.

4. The reasoning of the Trustees in adopting the working spouse rules was multifold:

(a) The overwhelming majority of single employer and multiemployer employee welfare benefit plans require spousal coverage under the health and welfare plan of the employer of the spouse. If this should change, the Trustees shall revisit the topic.

(b) The adoption, implementation and enforcement of the working spouse rules will save the Plan significant money. In the case of the Plan, the subcommittee that researched the subject and drafted the rules estimates that in the last half of 2001 and in 2002 this program will save the Plan over Three Hundred Twenty-Five Thousand Dollars (\$325,000.00).

(i) This is significant since in 2000 the Plan operated at a significant financial loss and the reserves of the Plan were eroded by over 33 $\frac{1}{3}$  percent.

(ii) In 2001, before adoption of the working spouse rule, the Plan was again operating at a loss and reserves were being further reduced.

(iii) The national and regional health care increases in the Consumer Price Index were higher than the subsequent increases the local union was able to negotiate from the City of Toledo.

(iv) The adoption of the working spouse rules, together with other cost containment procedures adopted by the Trustees in February of 2001, should bring the Plan back into financial balance.

(v) The Trustees continue to closely and regularly monitor the fiscal situation and will take such further actions when necessary to preserve and protect the fiscal integrity of the Plan.

5. The Trustees acknowledge that there are multiple reasons why a Firefighter's spouse would seek employment outside of the home, including, but not limited to:

- (a) a need for additional family income to balance the family budget;
- (b) a need for self-fulfillment of social, educational or psychological goals; and
- (c) a desire to expand horizons of friendship and knowledge.

The Trustees do not intend that the working spouse rules shall frustrate these goals. The Trustees, via the Committee, shall attempt to balance their fiduciary duty to preserve and maintain the fiscal integrity of the Plan with these important and valid personal goals.

**D. Standards to be Applied and Followed by Committee and Board of Trustees**

1. Each and every employer of a spouse of a Firefighter shall set its plan design, costs of participation, service providers, etc. The Trustees have, in the design of the working spouse rules, provided that the Plan would reimburse the spouse seventy-five percent (75%) of the cost of participation in the employer's plan over a monthly threshold of One Hundred Fifty Dollars (\$150.00). If the Toledo Firefighter and the spouse feel that the amount they are required to pay, over and above the reimbursement provided by the Plan, constitutes a financial hardship to the family, they may appeal to the Committee. As a general standard, the Committee believes that if the actual cost of coverage (the amount charged by the employer less the Plan's amount of reimbursement) exceeds thirty-five percent (35%) of the spouse's net, after-tax wages, relief shall be granted. Even if the actual cost of coverage is less than thirty-five percent (35%) of the spouse's net take-home pay, the Committee, based upon the facts of a particular family situation, may find that a financial hardship has been created and may increase the percentage of the premium to be reimbursed by the Plan.

2. The working spouse rules apply whether the spouse is employed full time or part time. Thus, a voluntary reduction in hours worked to drop from full-time to part-time status as defined by the spouse's employer will not remove the necessity to obtain and maintain coverage under the health and welfare plan of the spouse's employer.

3. **If the plan design of a health and welfare plan of an employer of a Toledo Firefighter's spouse provides coverage for full-time employees, but not part-time employees, and if prior to June 1, 2001 the spouse was working full time but, after the effective date of the working spouse rules, the spouse voluntarily elects to reduce his or her hours of employment to fall to part-time status, there shall be a presumption that this was done to defeat the purpose of the Plan's rules. Accordingly, the Plan will process claims submitted on behalf of the working spouse, and if the spouse's birth date is earlier in the year than the birth date of the Firefighter, then claims filed on behalf of the dependent child will be processed as if the spouse had coverage under his or her employer's plan. If the Firefighter and spouse feel that the application of the presumption is inaccurate in their situation or would work a hardship on them, they may appeal to the Committee for appropriate relief.**

4. As the Committee considers and acts upon specific appeals, detailed standards and guidelines will evolve. The participants in the Plan will be made aware of these standards.

If there are any comments or questions, please do not hesitate to contact, in person or by telephone, Jerry, Linda or Dana at the Plan office, or me. We will attempt to respond promptly and fully.

Toledo Firefighters Welfare Fund

Board of Trustees



## TOLEDO FIREFIGHTERS WELFARE FUND

### APPLICATION FOR CONSIDERATION BY HARDSHIP COMMITTEE

The undersigned, a Toledo Firefighter and participant in the Toledo Firefighters Welfare Fund (the "Fund") and spouse, do hereby apply to the Hardship Committee of the Fund for consideration and appropriate relief from the strict application of the spousal coverage rules. We do hereby certify that the following information is true, correct and complete in all respects.

Name of Firefighter: \_\_\_\_\_

Name of Spouse: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Telephone Number: \_\_\_\_\_

Spouse's Employer: \_\_\_\_\_

Address of Spouse's Employer: \_\_\_\_\_

Business Telephone Number of Spouse's Employer: \_\_\_\_\_

Contact Person at Spouse's Employer: \_\_\_\_\_

First Date of Spouse's Employment with Employer: \_\_\_\_\_

Spouse's Title: \_\_\_\_\_

Please describe spouse's job activities: \_\_\_\_\_

Average Number of Hours Worked Per Week: \_\_\_\_\_

Gross Pay Per Week: \_\_\_\_\_

Net Take-Home Pay Per Week: \_\_\_\_\_

Please explain in as much detail as possible the reasons you feel the application of the working spouse coverage rules would constitute an untoward hardship on your family: \_\_\_\_\_

\_\_\_\_\_  
 (If additional space is required, please attach as many additional pages as are necessary to fully explain your concerns.)

If there is a hearing, will you have an attorney or other person represent and speak for you? \_\_\_\_\_

If yes, please provide the name, address, telephone number and business or profession of your representative: \_\_\_\_\_

Please provide any other information you would like the Hardship Committee to have and consider: \_\_\_\_\_

Signed at Toledo, Ohio this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Firefighter

\_\_\_\_\_  
Spouse