

# **RAINY DAY FUND POLICY**

NYSCOPBA has created a Rainy Day Fund for its members. The purpose of the Rainy Day Fund is to provide supplemental income for qualifying members who are suspended without pay for disciplinary reasons for incidents that occur while on duty. For those members who do not utilize the Rainy Day Fund during their careers, a Separation Benefit was also established under this fund. This Policy was amended on October 10, 2018. Recognizing the need to provide proper notice to members, effective close of business November 20, 2018, the amended changes will be implemented. The Separation Benefit for current members will be frozen to the amount they contributed as set forth in the previous policy. No members shall accrue a separation benefit after November 20, 2018. The Supplemental income during suspension was also amended to reduce the maximum bi-weekly benefit to \$1300.

The NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether the actions occurred while the member was engaged in the lawful performance of his or her duties and that providing supplemental income during that period of suspension shall be consistent with the overall interests of the general membership. The NYSCOPBA Executive Board shall consider the following criteria:

## **Eligibility**

Any active dues paying member in the New York State Correctional Officers & Police Benevolent Association, Inc. Union can participate in the Rainy Day Fund upon fulfillment of each of the following three criteria:

- a. Filing with the Plan Administrator a properly completed application.
- b. Approval of the application by the Rainy Day Fund.
- c. Commencement and continuation of the required contribution to the Rainy Day Fund.

## **Benefits under the Fund**

### **Supplemental income during suspension**

The Fund benefits described below are only available to members who receive a Notice of Discipline and are suspended without pay for incidents that occur while on duty. The NYSCOPBA Executive Board in its sole discretion shall determine whether the conduct alleged in the Notice of Discipline occurred while the member was engaged in the performance of his or her duties.

There is a fourteen (14) calendar day “waiting period” from the time the member is suspended without pay before the member becomes eligible for Fund benefits. Members who have unused

leave accruals (vacation and personal time) must use all accrued leave prior to becoming eligible for Fund benefits.

All Fund benefits will cease if the member agrees to settlement of the Notice of Discipline.

All Fund benefits will cease if a member is found guilty of any or all charges imposed upon him/her within the Notice of Discipline immediately as of the date of the arbitrator's decision. The Fund will not pay supplemental income during any going forward penalty period assigned by the arbitrator and/or agreed to by the member.

All Fund benefits will cease if the member admits guilt, resigns from their position or lack of active participation from the member in the pending case.

### **Amount of Coverage**

Effective November 20, 2018 the maximum benefit is the lesser of \$1,300 or the members' bi-weekly salary, payable every two weeks while the member is suspended excluding the waiting period. The member must first utilize his/her leave accruals before becoming eligible for the benefit. Members will not be eligible for this benefit until all leave accruals have been utilized. If the member does not have leave accruals or such accruals are less than 14 days, the benefit commences at the end of the 14 day waiting period.

Each payment will coincide with the regular pay schedule currently in place. All payments will be pro-rated based on the actual number of day(s) suspended after the member satisfies the fourteen (14) day waiting period and exhausted his/her leave accruals

All funds paid by the Rainy Day Fund are subject to both Federal and State income taxation.

### **Separation Benefit**

This policy effective November 20, 2018 eliminates future accruals of Separation Benefits. The policy prior to that date provided if a member does not utilize the Rainy Day Fund at any time during his/her employment, he/she shall be entitled to receive a benefit upon his/her retirement or separation of service. If, however, the member utilizes and subsequently fully reimburses the Rainy Day Fund for monies utilized, the member shall be entitled to the Separation Benefit upon his/her separation from service.

### **Amount of Coverage**

Prior to freezing the Separation Benefit the policy provided that upon retirement/separation, each member shall receive a lump-sum payment calculated at the rate of \$50 per year of participation in the Rainy Day Fund, excluding the first year of participation. Benefits accrued prior to November 20, 2018 shall be payable upon retirement/separation. All funds payable as Separation Benefit are subject to both Federal and State income taxation.

## **Exclusions from Coverage**

The Fund does not cover acts or omissions as the result of off-duty conduct or while on a leave of absence, including but not limited to domestic incidents, outside drug and/or alcohol charges, and theft.

In addition, if the Plan Administrator determines that Fund benefits have been provided to a member as a result of misrepresentations of that member, and/or a member does not cooperate with the Plan Administrator during the course of such member's claim for benefits, payment of such benefits may cease and the Fund will have the right to seek reimbursement from the member of any benefits already paid.

## **Termination of Benefits**

Except insofar as to the acts or omissions giving rise to the claim occurred prior to such termination of coverage, the benefits will automatically terminate when one or more of the following situations occur:

- a. Individual ceases to be a member of NYSCOPBA;
- b. Employment terminates; or
- c. The Rainy Day Fund is terminated

## **Claims Procedures**

Upon receiving a Notice of Discipline and/or suspension notice, the member must submit a copy of the Notice of Discipline and or suspension notice to the Regional Vice President of his or her Region who is acting as representative for the Plan Administrator for purpose of accepting the member's application.

NYSCOPBA shall provide the member with an application and the member must submit the application to the Recording Secretary who shall forward the request to the NYSCOPBA Executive Board to determine whether the member qualifies for the benefit. The NYSCOPBA Executive Board shall determine whether the member meets the criteria for the benefit.

In order to ensure timely processing of a member's claim application, the Rainy Day Fund Application should be completed accurately, including providing sufficient information for the Plan Administrator to determine that the member's conduct alleged in the Notice of Discipline occurred while the member was engaged in the performance of his or her duties.

The member must also agree that if the member is, by settlement, arbitration or other means, restored to the payroll for any period of time for which he/she received payment from the Fund, the member shall reimburse to NYSCOPBA the amount paid to the member during his/her period of suspension. The member must execute a signed agreement before receiving any payments, and

as a condition thereof, if he/she receives his/her back pay, the member shall reimburse NYSCOPBA.

## **Benefit Claims and Review**

A member is only treated as filing a claim for Fund benefits when the member submits a Rainy Day Fund Application to the Plan Administrator. For purposes of the Fund's claims and review procedures, a member is not treated as filing a claim for Fund benefits when the member or the member's representative asks the Plan Administrator by telephone if coverage is available to the member for a particular incident.

The Plan Administrator will notify a member in writing if the member's claim for Fund benefits is denied, within the time periods described below. The notice will set forth:

- The specific reason or reasons for the denial;
- Reference to the specific Fund provisions on which the denial is based;
- A description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why the material or information is necessary; and
- A description of the Fund's review procedures and the time limits applicable to the review procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if the claim for benefits is denied on review.

The Plan Administrator will provide the written notice to the member as soon as possible, but not more than 90 days after the Plan Administrator receives the Participant's claim, unless the Plan Administrator determines that an additional period of time, not to exceed 90 days, is required because of matters beyond the control of the Plan. If an additional period of time is required, the Plan Administrator will notify the Participant in writing of the circumstances requiring the extension of time and the date by which the Plan Administrator expects to render a decision.

If the Plan Administrator notifies a Participant that the Plan Administrator has denied all or part of the Participant's claim, the Participant may request a review of the denial. The Participant or the Participant's authorized representative must notify the Review Panel of the Plan Sponsor in writing of the Participant's request for a review of the denial within 60 days after the Participant receives written notice of the denial from the Plan Administrator.

The Review Panel will give the Participant or the Participant's authorized representative the opportunity to submit written comments, documents, records, and other information relating to the Participant's claim for Fund benefits.

Upon request and free of charge, the Participant or the Participant's authorized representative will be provided reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits.

The Review Panel's review will take into account all comments, documents, records, and other information submitted by the Participant or the Participant's authorized representative relating to the claim, without regard to whether the information was submitted or considered by the Plan Administrator.

The Review Panel will notify a Participant in writing of the Review Panel's decision upon review. The notice will set forth:

- The specific reason or reasons for the decision;
- Reference to the specific Fund provisions on which the decision is based;
- A statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Participant's claim for benefits; and
- A statement of the Participant's right to bring an action under Section 502(a) of ERISA.

The Review Panel will make its decision no later than 60 days after the date the Review Panel received the request for review. However, if the Review Panel determines that special circumstances require an extension of time for processing the review request, the Review Panel will notify the Participant in writing before the end of the initial 60-day period. The notice to the Participant will indicate the special circumstances requiring the extension of time and the date as of which the Review Panel will make its decision, which must be within 120 days after the date the Review Panel received the request for review.