

MEMORANDUM

TO: Board of Trustees
FROM: Benefit Review Committee
DATE: August 28, 2025
SUBJECT: Report of the Benefit Review Committee Meeting held on August 28, 2025

A meeting of the Benefit Review Committee of the Board of Trustees was held in the Oak Brook IMRF office on Thursday, August 28, 2025. Present at the meeting were Committee members Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend. Staff members present were Shuliga, Beyer, Grossman, Seputis, Collins, Dixon, and Hollyfield.

(25-08-01) (Roll call)

Trustee Miller presided as chairperson and called the meeting to order at 12:30 p.m. Committee members Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend were present for roll call.

(25-08-02) Approval of the committee meeting minutes from May 30, 2025

Motion: Copper
Second: Stefan
Ayes: Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend
Nays: None
Motion Passed: 7-0

(25-08-03) Findings and Conclusion of the IMRF Hearing Officer – Norma Rinks

Associate General Counsel Beyer presented the findings and conclusion of the IMRF Hearing Officer in the above referenced case. The Committee reviewed the recommended findings and conclusions of the IMRF hearing officer.

After further discussion, a motion was made to recommend the adoption of the findings and conclusion of the IMRF hearing officer in the above referenced case. The recommended findings and conclusions are attached hereto.

Motion: Townsend
Second: Copper
Ayes: Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend
Nays: None
Motion Passed: 7-0

(25-08-04) Findings and Conclusion of the IMRF Hearing Officer – James Hayes

Associate General Counsel Beyer presented the findings and conclusion of the IMRF Hearing Officer in the above referenced case. The Committee reviewed the recommended findings and conclusions of the IMRF hearing officer.

After further discussion, a motion was made to recommend the adoption of the findings and conclusion of the IMRF hearing officer in the above referenced case.

The recommended findings and conclusions are attached hereto. Staff is directed to close the matter and take no further action on Mr. Hayes' account regarding this matter.

Motion: Townsend
Second: Copper
Ayes: Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend
Nays: None
Motion Passed: 7-0

(25-08-05) Stephani Buff – Denial of Total and Permanent Disability Benefits

Written materials including medical records, member, employer, and physician questionnaires; and a written statement of claim from the member were provided to the committee members for review prior to the hearing. Stephani Buff appeared in person with her husband, Dean Titus, to provide testimony. The Committee also heard testimony from staff.

After deliberation, the Committee recommends that the Board affirm the staff decision denying total and permanent disability benefits. Based on the medical documentation provided by Ms. Buff and the expert reports, Ms. Buff does not meet IMRF's definition of total and permanent disability based upon the conditions that IMRF is eligible to consider. The evidence shows that Ms. Buff is capable of performing sedentary work sufficient to establish gainful activity. Additionally, Ms. Buff's physician indicated that they did not disagree with the IMRF expert's report which concluded that she was not totally and permanently disabled. Therefore, the Committee finds that Ms. Buff does not meet the eligibility requirements for total and permanent disability benefits as set forth in Section 7-150.

Motion: Copper
Second: Stafford
Ayes: Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend
Nays: None
Motion Passed: 7-0

(25-08-04) Tomasa Reis – Denial of Total and Permanent Disability Benefits

Written materials including medical records, member, employer, and physician questionnaires; and a written statement of claim from the member were provided to the committee members for review prior to the hearing. Tomasa appeared via videoconference to provide testimony. The Committee also heard testimony from staff.

After deliberation, the Committee recommends that the Board affirm the staff decision denying total and permanent disability benefits. Based on the medical documentation provided by Ms. Reis and the expert reports, Ms. Reis does not meet IMRF's definition of total and permanent disability based upon the conditions that IMRF is eligible to consider. The evidence shows that Ms. Reis is capable of performing sedentary work sufficient to establish gainful activity. Therefore, the Committee finds that Ms. Reis does not meet the

eligibility requirements for total and permanent disability benefits as set forth in Section 7-150.

Motion: Miller
Second: Townsend
Ayes: Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend
Nays: Copper
Motion Passed: 6-1

(25-08-07) Discussion and Approval of Recommendation for Hearing Officer Services

Associate General Counsel Beyer presented the results of the RFP for hearing officer services and staff's recommendation to renew the contracts of Susan Davis Brunner and Ottosen DiNolfo Hasenbalg & Castaldo.

After further discussion, a motion was made to recommend the adoption of staff recommendation to renew the contracts of Susan Davis Brunner and Ottosen DiNolfo Hasenbalg & Castaldo.

Motion: Townsend
Second: Copper
Ayes: Copper, Cycholl, Isaac, Miller, Stafford, Stefan, and Townsend
Nays: None
Motion Passed: 7-0

(25-08-08) Litigation Update

Associate General Counsel Beyer presented an update regarding pending or recently concluded litigation. No final action was taken.

(25-08-09) Public Comment

None

(25-08-10) Adjournment

Trustee Copper made a motion to adjourn at 2:53 p.m. Seconded by Trustee Isaac. Motion passed by unanimous voice vote.

**BEFORE THE BOARD OF TRUSTEES OF THE
ILLINOIS MUNICIPAL RETIREMENT FUND**

In the Matter of)	
Norma Rinks (MID# 138-9964))	
Deceased Member Charles H. Rinks, Jr.)	June 12, 2025
(MID# 108-8033))	
)	
[Surviving Spouse Benefit])	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Charles H. Rinks, Jr., a deceased retired participant in the Illinois Municipal Retirement Fund (“IMRF”), participated in IMRF through the West Aurora School District #129 and retired effective July 1, 2001. Until his death on October 18, 2024, Charles H. Rinks, Jr. (“Charles”) received his regular retirement benefit from IMRF. His wife, Norma Rinks (“Rinks”), appealed a decision by IMRF staff that she is not entitled to surviving spouse benefits because at the time of Charles’ termination of service, he was divorced from Rinks and had not been married to her for at least one year prior to his termination, as required for eligibility under Section 7-154(a)(1)(ii) of the Illinois Pension Code (40 ILCS 5/7-154(a)(1)(ii)). Furthermore, Charles had received a refund of his survivor benefit contributions at the time of his retirement in 2001 in accordance with Sections 7-154(b) and 7-159 of the Illinois Pension Code (40 ILCS 5/7-154(b) and 7-159).

Pursuant to the IMRF Non-Disability Appeal Procedures, a hearing was held on June 12, 2025, by video conference, before Carolyn Welch Clifford, one of the IMRF Administrative Hearing Officers. Rinks was given proper notice of the hearing and appeared at the hearing. Associate General Counsel Elizabeth Beyer appeared on behalf of IMRF.

Copies of all documentation submitted by IMRF and Rinks were admitted into evidence for the administrative record as **Rinks Supporting Documents** (pages 1 through 39) (hereinafter, “**Documents**”). As a result of this process, the Board of Trustees of IMRF finds and determines as follows:

A. REVIEW OF APPLICABLE STATUTES

1. Section 7-154 of the Illinois Pension Code addresses surviving spouse annuities and states:

- (a) A surviving spouse annuity shall be payable to the eligible surviving spouse of a participating employee, an employee annuitant, or a person who on the date of death would have been entitled to a retirement annuity, had he applied for such annuity, and who dies at any time when a surviving spouse annuity equals at least \$5 per month, provided:
 - (1) The *surviving spouse* (i) was married to the participating employee for at least one year on the date of death, or (ii) *was married to the annuitant or person entitled to a retirement annuity for at least one year prior to the date of termination of service*, or (iii) was married to the deceased annuitant for at least one year on the date of the deceased annuitant's death, if at the time of termination of service the deceased annuitant was married for at least one year to a spouse who does not survive the deceased annuitant. (Item (iii) applies to the spouses of annuitants who die on or after the effective date of this amendatory Act of the 99th General Assembly, notwithstanding whether the annuitant was in service on or after that effective date or the effective date of Public Act 87-850.)
 - (2) The male deceased employee annuitant or such other person entitled to a retirement annuity had contributed to this fund for surviving spouse annuity purposes for at least 1 year or continuously since the effective date of the participating municipality or participating instrumentality.
 - (3) The female deceased employee annuitant or such other person entitled to a retirement annuity was in service on or after July 27, 1972, provided that the annuity shall not be computed on the basis of any retirement annuity effective before that date.
 - (4) If the employee dies before termination of service, the employee did not exclude the spouse from any death benefit or surviving spouse annuity pursuant to subsection (b) of Section 7-118. A designation of beneficiary naming a spouse and children jointly or a trust pursuant to subsection (b) of Section 7-118 shall preclude payment of a surviving spouse annuity.
- (b) If a person is the spouse of a retiring participating employee on the date of the initial payment of a retirement annuity and is qualified to receive a surviving spouse annuity upon the death of the employee *and the surviving spouse contributions are not refunded to the employee*, then a surviving spouse annuity shall be payable to that person even if the marriage to the employee is dissolved after that date.
- (c) Eligibility of a surviving spouse shall be determined as of the date of death. Only one surviving spouse annuity shall be paid on account of the death of any employee. [emphasis added] (40 ILCS 5/7-154)

2. Section 7-159 of the Illinois Pension Code addresses surviving spouse annuity – refund of survivor credits, and provides in applicable part:

(a) *Any employee annuitant who (1) upon the date a retirement annuity begins is not then married, or (2) is married to a person who would not qualify for surviving spouse annuity if the person died on such date, is entitled to a refund of the survivor credits including interest accumulated on the date the annuity begins, excluding survivor credits and interest thereon credited during periods of disability, and no spouse shall have a right to any surviving spouse annuity from this Fund.* If the employee annuitant reenters service and upon subsequent retirement has a spouse who would qualify for a surviving spouse annuity, the employee annuitant may pay the fund the amount of the refund plus interest at the effective rate at the date of payment. The payment shall qualify the spouse for a surviving spouse annuity and the amount paid shall be considered as survivor contributions.

(b) Instead of a refund under subsection (a), the retiring employee may elect to convert the amount of the refund into an annuity, payable separately from the retirement annuity. If the annuitant dies before the guaranteed amount has been distributed, the remainder shall be paid in a lump sum to the designated beneficiary of the annuitant. The Board shall adopt any rules necessary for the implementation of this subsection. [emphasis added] (40 ILCS 5/7-159)

B. FINDINGS OF FACT

3. Charles H. Rinks, Jr. began IMRF participation on March 1, 1979, when he was enrolled by the West Aurora School District #129. Charles completed an IMRF retirement application dated May 15, 2001, and on May 24, 2001, School District #129 terminated Charles' IMRF participation as of June 1, 2001. (See Documents, pp. 6-7)

4. In his Application for IMRF Retirement Pension dated May 15, 2001, Charles marked his marital status as “divorced” and left blank the areas on the application for “Date of Marriage,” “Spouse’s Name,” “Spouse’s Social Security Number,” and “Spouse’s Birth Date.” In addition, above his signature, the application stated, “I certify that the above information is correct to the best of my knowledge and belief.” (See Documents, p. 7)

5. According to Associate General Counsel Beyer, shortly thereafter—on June 11, 2001—Charles submitted a designation of beneficiary form to IMRF, which stated that he was

married to Norma Rinks and that the marriage had occurred on June 10, 2001.¹ (See **Documents**, p. 4)

6. On July 16, 2001, IMRF sent Charles a letter requesting that he indicate the type of payment he preferred to receive for the additional contributions he had made for surviving spouse benefits, which could be distributed either by a lump sum refund or annuitized for his lifetime. Charles returned the selection form to IMRF on July 24, 2001, choosing to have surviving spouse refund annuitized to him. (See **Documents**, pp. 8-13)

7. IMRF approved Charles' retirement benefits which included an annuitized surviving spouse benefit effective July 1, 2001. In the Certification of Benefits, dated August 15, 2001, the retirement is certified as including the surviving spouse contribution annuitized ("Your lifetime annuity from your surviving spouse contribution refund is \$30.31 per month effective July 1, 2001."). (See **Documents**, p. 14)

8. Rinks advised IMRF of Charles' death on October 18, 2024. IMRF issued a letter to Rinks on October 25, 2024, stating that she may be eligible to receive an IMRF member death benefit and requesting she provide a copy of the death certificate for Charles. (See **Documents**, pp. 15-16)

9. On November 18, 2024, IMRF received from Rinks a copy of Charles' death certificate from the State of Arkansas and their marriage license from the State of Illinois, Whiteside County, documenting the Rinks' marriage in 1962.² (See **Documents**, pp. 17-19)

10. Following communications between IMRF staff and Rinks regarding her request for a surviving spouse benefit, IMRF General Counsel Vladimir Shuliga prepared correspondence

¹ The designation of beneficiary form was not made part of the administrative record, but it is likely that this form was for the \$3,000 lump sum death benefit which IMRF annuitants may designate for one or more beneficiaries and is not limited to designation of surviving spouses (40 ILCS 5/7-163 and 7-164).

² The 1962 marriage license documents a marriage between Norma Jean Mammosser and Charles Hubert Rinks, Jr. on June 10, 1962, 39 years prior to the second marriage between the couple. (See **Documents**, p. 19)

to Rinks on January 13, 2025, explaining that she was not entitled to a surviving spouse benefit because Charles had advised IMRF that he was divorced at the time of his retirement and elected to receive his annuitized surviving spouse contributions as part of his retirement benefit. (See Documents, pp. 20-21)

11. On February 3, 2025, Rinks submitted her written notice of appeal of the IMRF staff decision, requesting IMRF reconsider its decision on the monthly surviving spouse benefits and noting that the IMRF staff “may not have had all the information they needed in making their decision.” (See Documents, p. 22)

12. Rinks stated in her February 3, 2025, correspondence that she did not realize at the time she submitted Charles’ death certificate and June 1962 marriage license that their 2001 marriage license would be necessary. Rinks provided copies of her birth certificate, the 1962 marriage license, the first and last pages of the couple’s divorce decree from the Kane County Circuit Court in 1998, and the 2001 marriage license. Rinks explained:

We were married in June of 1962, divorced in May of 1998 and remarried in June of 2001. I do not know why [Charles] would say he was divorced when signing the retirement papers, unless he signed them before we remarried in June of 2001 and his retirement in July of 2001. (See Documents, pp. 22, 24-29)

13. Rinks further explained that she did not understand why she would be ineligible for IMRF survivor benefits, noting “my hope is now that you know we were married, not for 8 years, but for 19-1/2 years of his 22-1/2 years of service,” and urged IMRF to reconsider its decision. (See Documents, p. 22)

14. In a letter to Rinks dated February 10, 2025, Associate General Counsel Beyer acknowledged Rinks’ appeal and clarified the IMRF staff decision:

Based on the information you provided, [Charles] was divorced on June 1, 2001, the date that he stopped participating in IMRF. In order to qualify to receive benefits as a surviving spouse, the spouse must be married to the retiree “for at least one year prior to the date of termination of service.” 40 ILCS 5/7-154(A)(1)(ii). This means that in order for you to have qualified for [Charles’] surviving spouse benefit, you must have been married to him from June 2, 2000 through June 1, 2001. Since you were not married during this time, [Charles’] surviving spouse contributions were properly paid out. (See Documents, p. 30)

15. In an email on April 21, 2025, Rinks submitted a Statement of Claim dated March 3, 2025, in which she further detailed her position on her eligibility for a surviving spouse benefit. Specifically, Rinks questioned IMRF's interpretation of the "one-year" requirement in Section 7-154(a)(1)(ii) of the Illinois Pension Code. Rinks stated the provision could be interpreted to mean that the retiree need only to have been married at least one year prior to retirement, rather than the "one specific year" prior to retirement, for a surviving spouse to qualify for benefits. (See **Documents**, p. 38)

16. Furthermore, Rinks urged IMRF to consider the intent of the surviving spouse benefit provision. Rinks explained that if the legislature intended to benefit surviving spouses in this provision, the circumstances of her marriages to Charles should qualify her for benefits, based on the "intent" of the law, even if not precisely on the "letter" of the law. (See **Documents**, p. 38)

17. IMRF Associate General Counsel Beyer explained in her defense of the IMRF staff's determination that while the staff was sympathetic to Rinks' situation, under the Illinois Pension Code, a surviving spouse only becomes eligible for the spousal annuity if she "was married to the annuitant . . . for at least one year prior to the date of termination of service." (40 ILCS 5/7-154(a)(1)(ii)) (See **Documents**, p. 4)

18. Additionally, IMRF Associate General Counsel Beyer explained that surviving spouse benefits are only payable if the spouse is qualified and "the surviving spouse contributions are not refunded to the employee." (40 ILCS 5/7-154(b)) Under the Illinois Pension Code, there is no exception to the surviving spouse benefit statute that would permit IMRF to pay a previously refunded amount to a spouse of a retired participant who is now deceased. Similarly, there is no mechanism in the Illinois Pension Code which permits reinstatement of surviving spouse credits when the surviving spouse is not eligible for a benefit. (40 ILCS 5/7-154(a)(1)(ii)) (See **Documents**, p. 4)

C. CONCLUSIONS OF LAW

19. The Board of Trustees of the Illinois Municipal Retirement Fund has jurisdiction over this appeal pursuant to Section 7-200 of the Illinois Pension Code (40 ILCS 5/7-200), as well as under the Non-Disability Appeal Procedures that have been adopted by the Board pursuant to Section 7-198 of the Illinois Pension Code (40 ILCS 5/7-198).

20. The Board has a fiduciary duty to administer the Fund in accordance with applicable provisions of the Illinois Pension Code. (40 ILCS 5/1-109)

21. Under Section 7-154(b) of the Illinois Pension Code, surviving spouse benefits are only payable if the surviving spouse contributions have not been refunded to the employee. (40 ILCS 5/7-154(b))

22. Once a retired participant elects to receive annuitized surviving spouse contributions, IMRF is not authorized to pay a surviving spouse pension. (40 ILCS 5/7-154(b))

23. Furthermore, under Section 7-154(a)(1)(ii) of the Illinois Pension Code, a surviving spouse annuity is due to a spouse who has been married to the retiree for at least one year prior to the date of termination. (40 ILCS 5/7-154(a)(1)(ii))

24. Because Charles was unmarried at the time of his termination of service and was legally owed a refund of surviving spouse contributions that he elected and received as part of his benefits until his death, Rinks was ineligible for surviving spouse benefits pursuant to the language of Sections 7-154 and 7-159 of the Illinois Pension Code. (40 ILCS 5/7-154 and 7-159)

25. Based on the evidence in the administrative record and resolving any conflicts therein, the IMRF Board concludes that Rinks has not articulated a legal or factual basis to dispute the IMRF staff's determination.

D. DECISION

By reason of the above findings of fact and conclusions of law, and after careful consideration of the evidence, the Board of Trustees of the Illinois Municipal Retirement Fund, HEREBY ORDERS as follows:

1. The administrative staff determination that Norma Rinks is not entitled to a surviving spouse benefit as the result of the death of her husband, Charles H. Rinks, Jr., under Sections 7-154(a)(1)(ii) and (b), and 7-159 of the Illinois Pension Code (40 ILCS 5/7-154(a)(1)(ii) and (b), and 7-159), is hereby AFFIRMED.

2. This is a final administrative decision, which is reviewable under the terms of the Illinois Administrative Review Law. (40 ILCS 5/7-220; 735 ILCS 5/3-101)

These Findings of Fact and Conclusions of Law are adopted this _____ day of August,
2025, by the following roll call vote:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Being parties to these proceedings.

President, Board of Trustees
Illinois Municipal Retirement Fund

ATTEST:

Secretary, Board of Trustees
Illinois Municipal Retirement Fund

ILLINOIS MUNICIPAL RETIREMENT FUND

IN THE MATTER OF JAMES W. HAYES) #194-6919
FROM A DECISION OF THE ILINOIS MUNICIPAL) Susan Davis Brunner
RETIREMENT FUND ADMINISTRATIVE STAFF) Hearing Officer

STATEMENT OF THE CASE AND FACTUAL BACKGROUND

Until his last day of employment in December of 2024, JAMES W. HAYES #194-6919 (hereinafter referred to as “HAYES”) was an employee of Sangamon County (hereinafter referred to as “Sangamon”), an IMRF employer. While working at Sangamon, HAYES was an active participant in the Illinois Municipal Retirement Fund (hereinafter referred to as “IMRF”). Prior to working for Sangamon, HAYES was also an IMRF participant from 1997 through 2021, when he worked for Logan County. HAYES filed an application for his IMRF pension on December 9, 2024, and Sangamon filed a termination of IMRF participation for HAYES on December 11, 2024, with an annuity start day of January 1, 2025. Because Sangamon did not submit HAYES’ final rate of earnings information until February 3, 2025, HAYES received his annuity payments in full during April of 2025.

During January of 2025, HAYES worked 4.5 days as an independent contractor for the Law Enforcement Training Advisory Commission (hereinafter referred to as LETAC), an IMRF employer. HAYES was not reenrolled in IMRF and did not receive any IMRF benefits due to his work at LETAC. During December of 2024, prior to working for LETAC, HAYES telephoned the IMRF office in Springfield to confirm that LETAC was not an IMRF employer and to confirm that HAYES would not be jeopardizing his pension payments by working for LETAC less than 60 days after his January 1, 2025, annuity start date. IMRF concedes that this was confirmed by an IMRF employee during the phone call and that HAYES was erroneously advised by the IMRF employee that LETAC was not an IMRF employer and so HAYES was allowed to begin working for it.

On March 4, 2025, after being advised by another retiree and confirming that LETAC was, in fact, an IMRF employer, HAYES emailed IMRF. HAYES provided a summary of the above information in his email and asked IMRF to confirm that he was not in violation of the 60-day separation requirement, and if he was, how he could rectify this. On March 6th, IMRF responded that his email had been forwarded to the IMRF legal department, and on the same day HAYES provided information regarding LETAC and the dates he worked there. On March 31st, IMRF emailed HAYES and said his letter was forwarded to the legal department for review. On April 9, 2025, IMRF notified HAYES that it retroactively denied his December 2024 application for pension on the basis that HAYES had worked for an IMRF employer within 60 days of his annuity start date and had not fully separated from work.

On May 29, 2020, the IMRF Board of Trustees passed Board Resolution 2020-05-10(a) pertaining to the need to have a complete separation from service in order to be eligible to receive retirement benefits. This Resolution clarified the requirements for the separation of service and was to be effective beginning January 1, 2021. The Resolution was amended on November 19, 2021 (Resolution 2021-11-12(c)) to further clarify its requirements (the 2020 and 2021 resolutions hereinafter referred to together as the “Resolution”). The Pension Code does not expressly require a 60-day waiting period before returning to work after one’s pension start date, but the Resolutions do.

Therefore, IMRF staff determined that HAYES had returned to work prior to the completion of the 60-day waiting period required by IMRF resolution, since his effective pension date was January 1, 2025, and he began working for LETAC in the same month. IMRF staff determined that HAYES was no longer eligible to receive retirement benefits beginning January 1, 2025. IMRF further determined that HAYES was required to pay back all benefit payments he had been paid between January 1, 2025, and April 30, 2025. However, during the June 9, 2025, hearing in this matter, IMRF learned that HAYES did not work for LETAC or any other employer after January 31, 2025, and said that if verified, HAYES’ IMRF annuity start date would then be February 1, 2025.

HAYES now appeals the IMRF Administrative Staff Determination and maintains that he was misinformed by IMRF and relied on the incorrect information to his detriment. He asserts that since it was IMRF’S mistake, he should not be penalized by a delayed annuity start date. HAYES also maintains that the Pension Code does not specifically require a sixty-day waiting period before working as an independent contractor for a different IMRF employer in a non-IMRF position. HAYES further maintains that there should be no doubt that he intended to retire and legally separate from his job at Sangamon inasmuch as he telephoned IMRF in December of 2024, for the sole purpose of making sure he would not be violating the 60-day separation from work requirement by working for LETAC beginning in January of 2025. Therefore, he did not, in fact, return to work after his retirement within the intended meaning of the Pension Code. HAYES states that he would never intentionally violate the IMRF rules and did not think he was doing so by working sporadically as an independent contractor for LETAC. HAYES also states that he has already paid deferred compensation taxes and has made payments to his ex-wife on his annuity payments.

IMRF argues that the Pension Code and the Internal Revenue Service (hereinafter referred to as “IRS”) require an employee to be separated from service before receiving retirement annuities and the sixty-day waiting period ensures that neither IMRF nor the individual employee will run afoul of the law. IMRF also maintains that it is not adding a new requirement by adding a sixty-day waiting period but is just clarifying what is meant by the undefined term “separation from service” that was already present in section 7-141(a) of the Pension Code.

The appeal hearing was first heard remotely before Hearing Officer Susan Davis Brunner on June 9, 2025, at 11:00 a.m. HAYES appeared on behalf of himself, and Associate General Counsel Elizabeth Beyer appeared on behalf of IMRF.

ISSUES TO BE REVIEWED

Whether HAYES must pay back any portion of the pension benefits he was paid between January 1 and April 30, 2025 when he did not wait 60 days after retirement to start working for LETAC but he sought advice from IMRF specifically for the purpose of ensuring he would not be violating the 60-day separation requirement and he relied to his detriment on incorrect information given to him by IMRF that LETAC was not an IMRF employer.

DISCUSSION AND ANALYSIS

Based on the Findings of Fact, the Illinois Pension Code and IMRF Rules and Procedures, the Board of Trustees of the IMRF has jurisdiction over this appeal.

Article 7 of the Illinois Pension Code (40 ILCS 5/7 et seq; hereinafter referred to as the Pension Code) authorizes the Illinois Municipal Retirement Fund to provide retirement, disability, and death benefits to the employees of participating local governments and school districts in Illinois. The Pension Code also provides that the IMRF Board of Trustees may make rules and regulations for the IMRF to efficiently administer the fund. Although the IMRF is not an administrative agency and does not have formal regulations set forth in the Illinois Administrative Code, the IMRF Board of Trustees (IMRF Board) has authority to make “administrative decisions on participation and coverage, which are necessary for carrying out the intent of this fund in accordance with the provisions of this Article.” 40 ILCS 5/7-200 (West 2010). The Pension Code gives the authority to the IMRF to interpret the intent of the Pension Code and make rules and regulations on participation and coverage it believes are necessary to efficiently administer the fund. To that end, the IMRF Board has passed numerous Resolutions and has also adopted the “Authorized Agent’s Manual” (hereinafter referred to as the Manual), which it uses to provide guidance regarding IMRF rules. The Resolution and the Manual therefore constitute the IMRF’S “administrative rules.” Administrative rules interpreting a statute can be used by the court as guides but are binding on the court only to the degree that they follow the statute. (see *Stevens v. Oakbrook*, 2013 IL App (2d) 120456; also see *Illinois RSA No. 3, Inc. v. Department of Central Management Services*, 348 Ill. App. 3d 72, 77 (2004)).

Section 7-141(a) of the Pension Code provides that an employee may only receive a retirement annuity once they are “separated from the service of all participating municipalities and instrumentalities thereof and participating instrumentalities.”

The phrase “separation from service” is not expressly defined in the Pension Code. IMRF has stated that the requirement that one must “separate from service” before receiving a retirement annuity arises from the requirements set forth in both the Pension Code and the U.S. Tax Code. IMRF also states that IRS rules require IMRF to pay retirement benefits only to those members that have legitimately retired and terminated employment and if a member retires and is then reemployed without a bona fide separation of service, it raises qualification issues for the plan. Treas. Reg. § 1.401-1(a)(2)(i); Rev. Rul. 74-254, 1974-1 C.B. 94. Therefore, in order to retain its legal status and comply with federal law, IMRF maintains that by requiring the 60-day waiting period after retirement before working for any IMRF employer, it is doing what is necessary to comport with the law and be certain there has been a bona fide separation from work so IMRF can maintain its qualified plan status.

The 2020 Resolution regarding the separation of service provides as follows:

WHEREAS, Section 7-198 of the Illinois Pension Code authorizes the Board of Trustees of the Illinois Municipal Retirement Fund (IMRF) to establish rules necessary or desirable for the efficient administration of the Fund; and

WHEREAS, Section 7-141 of the Illinois Pension Code conditions the payment of a retirement annuity on an employee's separation of service from all IMRF participating employers; and

WHEREAS, the Internal Revenue Service has ruled that individuals who retire with the explicit understanding with their employer that they will continue working are not separating from service with the employer are not legitimately retired; and

WHEREAS, in order to preserve IMRF's qualified plan status under the Internal Revenue Code, IMRF may not pay a retirement annuity to an employee who has not legitimately separated from service,

“1. In order for a member to qualify to receive a retirement annuity the member must separate from the service of all IMRF employers. Moving from a qualifying IMRF position to a temporary or part-time position at an IMRF employer, or becoming a leased employee or an independent contractor of an IMRF employer, is not sufficient to constitute a bona fide separation of service.

2. A member may never prearrange continued employment as a common law employee, leased employee or independent contractor with an IMRF employer at the time of retirement from that employer. Such arrangement does not constitute a bona fide separation of service and such individuals would not be eligible to receive an IMRF pension.

3. IMRF will suspend the retirement annuity of a member who returns to employment or service with an IMRF employer earlier than sixty (60) days from their annuity start date. The suspension will begin on the first day of the month following the reemployment. This is true regardless of the number of hours worked, or whether the retiree is employed as an independent contractor.

4. Retirees who have received one or more retirement annuity payments after returning to service in violation of this policy will be required to return such payment(s) to IMRF. In the case of hardship, staff is permitted to enter into a repayment plan with the elected retiree, for a term not to exceed eight years. After sixty (60) days from the annuity start date, retirees may return to service with an IMRF employer, provided that there was no pre-arranged agreement to return to employment before retirement. In this case, the return-to-work rules established by the IMRF Board will apply”.

On May 29, 2020, IMRF issued and disseminated a General Memorandum #686 (hereinafter referred to as the “Memo”), that clarifies and reiterates the requirements set forth in the Resolution. In addition, the IMRF requirements regarding a “Separation of Service” are provided in the IMRF Manual.

An additional clarifying Resolution was passed by the Board on November 19, 2021, which states as follows:

WHEREAS, Section 7-198 of the Illinois Pension Code authorizes the Board of Trustees of the Illinois Municipal Retirement Fund (IMRF) to establish rules necessary or desirable for the efficient administration of the Fund; and

WHEREAS, Section 7-141 of the Illinois Pension Code conditions the payment of a retirement annuity on an employee’s separation of service from all IMRF participating employers; and

WHEREAS, the Internal Revenue Service has ruled that individuals who retire with the explicit understanding with their employer that they will continue working are not separating from service with the employer are not legitimately retired; and

WHEREAS, in order to preserve IMRF’s qualified plan status under the Internal Revenue Code, IMRF may not pay a retirement annuity to an employee who has not legitimately separated from service with their IMRF employer; and

WHEREAS, the Internal Revenue Service has provided guidance that an individual under the age of 59 ½ who receives retirement payments without a bona fide separation of service has received an in-service distribution and may be subject to early distribution tax penalties under the Internal Revenue Codes; and

WHEREAS, it is necessary to adopt rules consistent with Internal Revenue Service rules and regulations.

THEREFORE BE IT RESOLVED that the following administrative rules be and are hereby adopted by the Board of Trustees:

- A. In order for a member to qualify to receive a retirement annuity, the member must separate from the service of all IMRF employers. Moving from a qualifying IMRF position to a temporary or part-time position at an IMRF employer or becoming a leased employee or an independent contractor of an IMRF employer, is not sufficient to constitute a bona fide separation from service.*
- B. A member may never prearrange continued employment as a common law employee, leased employee or independent contractor with an IMRF employer at the time of retirement from that employer. Such arrangement does not constitute a bona fide separation of service and such individuals would not be eligible to receive an IMRF pension.*

- C. IMRF will retroactively deny the retirement annuity application of a member who returns to employment or service with an IMRF employer earlier than sixty (60) days from their annuity start date. This is true regardless of the number of hours worked, or whether the retiree is employed as an independent contractor.*
 - D. Retirees who have received one or more retirement annuity payments after returning to service in violation of this policy will be required to return such payment(s) to IMRF. In the case of hardship, staff is permitted to enter into a repayment plan with the effected retiree, for a term not to exceed eight years.*
 - E. Upon the conclusion of the employment or service arrangement, a retiree may become re-qualified to receive a pension. The pension may be effective the first of the month following the conclusion of service. The member must re-apply for the pension and their pension will be recalculated under the terms of the Pension Code.*
 - F. After sixty (60) days from the annuity start date, retirees may return to service with an IMRF employer, provided that there was no pre-arranged agreement to return to employment before retirement. In this case, the return-to-work rules established by the IMRF Board will apply.*
 - G. Elected officials and officials appointed to an elected office are not eligible to receive a retirement annuity while serving in that office if the individual has received IMRF service credit for service in that elected office. Any retiree, however, may be elected or appointed to an elected office and remain eligible for their retirement annuity as long as the retiree has never earned service credit for service in that elected office.*
 - H. A retiree may be appointed to a governing body position at an IMRF employer and remain eligible for their retirement annuity as long as the retiree has never earned service credit for service in that appointed office.*
- These rules will take effect as of January 1, 2021. This resolution will have prospective effect to individuals with termination dates on or after the date that these rules take effect.*

At issue here is whether the IMRF'S determination that an employee must wait sixty days before working in any capacity for any IMRF employer, a requirement that is stated in the Resolution, but is not expressly stipulated in the Pension Code, is a legal exercise of IMRF'S rulemaking authority in managing and maintaining the Pension Fund, and whether this requirement applies to HAYES. The Resolution states that an employee who does not wait sixty days before working for any IMRF employer even if it is not the same one, has not fully separated from service and that even making plans to work within that time-period means you are not separated from work. The Pension Code in 7-141 requires an employee to be separated from service from all IMRF employers but does not define the term "separated from service".

IMRF states that it was essential for it to set clear rules in its Resolutions and Memo in order to preserve IMRF's qualified plan status under the Internal Revenue Code. IMRF may not pay a retirement annuity to an employee who has not legitimately separated from service. IMRF maintains that it passed the Resolution because the IRS has stated that separation from service requires that an employee "stops performing service for the employer and there is not the explicit understanding between the employer and employee that upon retirement the employee will immediately return to service with the employer." The "Whereas" clause of the IMRF resolution states that the Internal Revenue Service has ruled that individuals who retire with the explicit understanding with their employer

that they will continue working are not separating from service with the employer are not legitimately retired. IMRF further maintains that it may not pay a retirement annuity to an employee who has not separated from service with any and all IMRF employers. For purposes of this Hearing Officer's written Recommendations for the IMRF Board of Trustees, the written IRS and US tax rules, regulations, letters and laws relied upon by IMRF will be taken as true, as this administrative hearing is not the arena to interpret or determine federal or state tax law.

IMRF maintains that by passing the Resolutions, it has not changed the statutory requirement that one must separate from work in order to receive benefits. Rather, IMRF asserts that the Resolutions were passed to clarify what is necessary to comply with the requirement and when the 60-day waiting period begins. IMRF has determined that one's retirement for purposes of the Pension Code begins upon the beginning of the annuity period, as indicated by the date of the first annuity payment. Section 4 of the 2020 Resolution specifically requires that the 60 days begins after the annuity start date: *"After sixty (60) days from the annuity start date, retirees may return to service with an IMRF employer, provided that there was no pre-arranged agreement to return to employment before retirement"*. Section F of the 2021 Resolution similarly provides that the 60-day waiting period begins upon the annuity start date: *"After sixty (60) days from the annuity start date, retirees may return to service with an IMRF employer, provided that there was no pre-arranged agreement to return to employment before retirement. In this case, the return to work rules established by the IMRF Board will apply."*

IMRF has stated that it is in receipt of prior IRS decisions that state that the IMRF'S legal status would be in jeopardy if the tax court deems an IMRF employee had not legally retired and/or had never intended to retire. It is then reasonable for IMRF to determine the best way to ensure that IMRF and the pensions of all the other employees are protected. It is up to IMRF to determine if there has been an adequate separation from service, as required by 7-141 of the Pension Code. Section 7-141(a) requires the employee to be "separated from the service of all participating municipalities and instrumentalities..." There is nothing in this section to suggest that this requirement does not apply to those who retire but then work part-time or temporarily with the same or another IMRF employer. The section could have stated that the need to separate from service only applies to the job from which one is retiring but did not do so. Nor does the statute state that it only applies to full time work after retirement. IMRF has determined that 7-141a requires separation from one's employer as well as any IMRF employer. By passing the Resolution, IMRF has not changed the requirement that one must separate from work but has clarified what is necessary to comply with the requirement. Per the Resolution, IMRF has determined that having the limited waiting period of 60 days before returning to work ensures that an employee has complied with the Pension Code and with the IRS and tax laws. IMRF has also determined that an employee may not make prior plans with an IMRF employer to work after one's retirement, presumably in order to prevent against a later determination that an employee's prior plans to work are actually an indication that the employee never intended to retire. These are reasonable decisions within the authority of the IMRF Board to administer the Fund in a manner that

comports with the law. IMRF has been the arbiter in the past in deciding whether there has been a bona fide retirement, and this is part of its authority under the Pension Code.

HAYES does not dispute that the Resolution would otherwise bar him from collecting his annuity without waiting 60 days before working for an IMRF employer, and states he was well aware of the rule and took appropriate measures to make sure he would not be in violation of it. Rather, he maintains that IMRF verbally approved his working post-retirement at LETAC beginning January of 2025, and that he followed IMRF'S instructions and relied on the erroneous information provided to him to his detriment. HAYES maintains that he did everything IMRF told him to do. He telephoned and emailed IMRF with questions, seeking clarification and information. HAYES also asserts that the IMRF website and various IMRF brochures repeatedly state that employees should contact IMRF directly in order to receive accurate information and answers, and he did just that.

HAYES argues that since he was given bad advice and incorrect information, the statutes and Resolution should not apply to him. He maintains that IMRF should provide an equitable disposition so that he is not required to repay his annuity benefits. However, this administrative hearing may not be the proper arena to determine whether an equitable disposition is appropriate, and this hearing officer lacks the authority to do so since the Pension Code does not provide any statutory basis for doing so. IMRF admits that its staff member erred when advising HAYES but maintains that it has no legal authority or ability under the Pension Code to ignore the requirements of the Pension Code and Resolution.

It is noteworthy that although much of the IMRF information pertaining to the 60-day waiting period is directed and disseminated solely to employers and warns all IMRF employers not to hire recent retirees without first contacting IMRF, there seems to be no penalty for an employer or an IMRF authorized agent or even an IMRF staff member who is mistaken or violates the 60-day rule. In this case, HAYES testified that he telephoned IMRF in December of 2024 to determine whether he would violate the 60-day separation from work rule by working for LETAC beginning January of 2025, and was told that there was no potential violation since LETAC was not an IMRF employer. The IMRF Resolution places all the responsibility upon the retiree to determine whether an employer is an IMRF employer and whether work violates the 60-day rule. It seems clear that HAYES made a good faith effort to avoid violating the 60-day separation from work rule.

Unfortunately, IMRF clearly and admittedly made mistakes and an IMRF agent or staff provided HAYES with erroneous information that LETAC was not an IMRF employer and so he could legally begin working for LETAC in January of 2025. While the Pension Code provides no express legal authority that allows IMRF to remedy its mistakes or the mistakes of IMRF employers or employees by now declaring HAYES to be exempt from the 60-day separation from work requirement, the Board finds that the unique circumstances of this case require an equitable solution.

Upon his termination of employment from Sangamon and active IMRF participation, HAYES was required to stop working for all IMRF employers in any capacity with no plans for future work and then wait sixty days after the beginning of his annuity period on January 1, 2025, before working for any IMRF employer. But for the inaccurate advice given to HAYES when he made attempts to abide by the Pension Code rules, he would have satisfied the separation requirements. As such, IMRF staff shall be directed to close this matter and take no further action regarding it. No overpayment shall accrue or be charged to HAYES' account.



June 19, 2025

SUSAN DAVIS BRUNNER, Hearing Officer

These Findings and Conclusions of Law are adopted this 29th day of August, 2025, by the following roll call vote:

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Being parties to these proceedings.

President, Board of Trustees
Illinois Municipal Retirement Fund

ATTEST:

Secretary, Board of Trustees
Illinois Municipal Retirement Fund