



IMPORTANT NOTICE TO BENEFIT RETIREES REGARDING DISQUALIFYING EMPLOYMENT

March 2020

Dear Retiree:

The Sheet Metal Workers' National Pension Fund ("Fund") pays monthly benefits to Participants who are *retired* within the meaning of the Plan Document ("Plan"). In general, you will continue receiving your monthly pension for your lifetime, provided you continue to be retired under the terms of the Plan. Under the Plan, you will **NOT** be considered retired if you work in Disqualifying Employment. Disqualifying Employment is defined differently depending on whether you are under or over Normal Retirement Age (age 65). **Please note that if you currently receive a Disability Benefit from the Fund, different rules apply and you should contact the Fund Office immediately for more information.**

When you retired, the Fund provided you with a summary of the rules governing the suspension of benefits. This notice is a reminder. We respectfully suggest you review these rules and your obligations under the Plan should you choose to work after retirement. This notice describes:

- (1) What is Disqualifying Employment? (pages 2 and 3)
- (2) What are Your Notification Obligations? (page 3)

The Plan currently has certain limited exceptions to work in Disqualifying Employment and the Sheet Metal Industry which are due to **expire effective December 31, 2020**. The Trustees may consider extending these exceptions; however, if these exceptions are not extended and you work in any of the work described below on after January 1, 2021, be advised that this would constitute work in Disqualifying Employment and in the Sheet Metal Industry and your pension would be subject to a suspension in accordance with the Plan.

These exceptions include:

- Work for, or on behalf of, a governmental entity in a position that primarily involves compliance with the requirements of any federal, state, county, or municipal law, regulation, rule, or ordinance pertaining to construction, building, or facilities codes or standards, or pertaining to the terms or conditions of employment, work, or labor; or
- Work in the Sheet Metal Industry for an organization that is exempt from federal income taxation under Internal Revenue Code section 501(c)(3) and the Participant works strictly as a volunteer and receives no compensation for such work other than for reimbursement of reasonable expenses; or
- Work as a Curriculum Construction Specialist (or similar position) for the Cleveland Municipal School District (CMSD), provided that certain conditions are satisfied; or
- Work performed as a teacher's assistant in a high school within the Springfield Public School District (Springfield, Oregon) that has career technical education (including the sheet metal trade).

NOTE: If you are receiving pension and are currently working for any of the exceptions cited below please contact the Fund Office for details.

Disqualifying Employment before Normal Retirement Age

If you have **not** yet reached Normal Retirement Age (generally age 65), Disqualifying Employment means **ANY** work (paid or unpaid):

- with a Contributing Employer;
- with an employer that is in the same or related business as a Contributing Employer. It is important to note that the Fund has Contributing Employers whose businesses involve much more than what is traditionally thought of as building trades sheet metal, including but not limited to: project management, residential construction, service work, engineering consulting, energy management, sign manufacturing, plumbing and electrical services, roofing, property or facilities management, windows/skylights repair and installation, inspection, and educational services (such as colleges, universities and school districts);
- in the Sheet Metal Industry, including work that may not be covered by a SMART collective bargaining agreement. This type of work extends to just about any job involving construction whether working with tools or not. It includes **any and all** types of work covered by a SMART collective bargaining agreement, all types of work under the trade jurisdiction of the Union as defined in the SMART Constitution, in a related building trade (union or nonunion) which includes but is not limited to residential and commercial electrical, carpentry, plumbing, painting, spackling, plastering, drywall and roofing work or any other type of residential or commercial work performed by members of the following building trades unions: Asbestos, Boilermakers, Bricklayers, Carpenters, Glazers, International Brotherhood of Electrical Workers (IBEW), Iron Workers, Insulators, Laborers, Millwrights, Operating Engineers, Painters, Plasterers, Roofers, Teamsters (building trades division), or the United Association of Plumbers and Pipefitters. It also includes any other work to which a sheet metal worker could have been assigned, referred, or can perform because of his or her skills and training as a sheet metal worker, or
- in self-employment in the same or related business as any Contributing Employer. **As noted above**, the business activities of the Fund's Contributing Employers are very broad – sheet metal employers engage in a wide variety of work. Therefore, the definition of "Sheet Metal Industry" includes many kinds of work. Put another way, employment or self-employment in the "same or related business as any Contributing Employer" or in the Sheet Metal Industry may be much broader than you might think.

Please note: it is critical to check with the Fund, *in writing*, before engaging in any employment or self-employment to confirm whether that work might be in the "Sheet Metal Industry" or in the "same or related business as any Contributing Employer." There are limited exceptions that may apply to your situation.

Disqualifying Employment at or after Normal Retirement Age

If you have reached Normal Retirement Age (age 65), Disqualifying Employment means employment or self-employment:

- in an industry covered by the Fund when your pension payments began,
- in the geographic area covered by the Fund when your pension payments began (note – the Fund's geographic area includes the continental United States, Hawaii, and Puerto Rico), and
- in any trade or craft in which you worked at any time under the Fund.

NOTE: Under the Plan a Participant's Required Minimum Distribution date ("RMD") is April 1st of the year, following the year, that he or she attains age 70 ½. As of a Participant's RMD, he or she must be in pay status. This means he or she can work without any restrictions under the Plan. For example, let's say a Participant's date of birth is June 30, 1949. In this example, he would attain 70 ½ in 2019 and his RMD would be April 1, 2020, which represents the date he would be permitted to work in any capacity without a suspension in benefits.

REMINDER: *Again, if you are not sure whether employment (including in a self-employed capacity) would cause your pension to be suspended, you should submit a written request to the Fund Office for determination before you return to work. If the employment is the type which will cause your pension to be suspended and you decide to work anyway, you must notify the Fund Office immediately.*

It is important to note that from time-to-time the Fund reviews retirees' employment after retirement. This is being done to ensure that you are not engaged in Disqualifying Employment. The Fund may, for example, require that you provide it with an authorization to check your employment record maintained by the U.S. Social Security Administration. ***If you fail to comply in a timely manner with the Fund's review process, including returning the signed authorization, your benefits will be suspended.*** If the Fund determines that you are working in Disqualifying Employment while collecting benefits, your benefit will be suspended or terminated and you will be required to reimburse the Fund for any overpayment.

Your Notification Obligation

You should report to the Fund Office in writing within 21 days of starting any work in Disqualifying Employment. It is your responsibility to make a written request to the Fund Office for a determination as to whether any employment or self-employment will be considered Disqualifying Employment. The best practice is to notify the Fund **before** engaging in **any work** after you retire or if at the time of retirement, you are thinking about doing work. You are responsible for notifying the Fund Office in writing when you stop working in Disqualifying Employment. If you work in Disqualifying Employment, your pension benefits will stop, or remain suspended, until you file the written notice that you have stopped working. If you are receiving a pension benefit and you work in Disqualifying Employment in any month after you reach Normal Retirement Age and have failed to give timely notice to the Fund Office of such employment, the Fund will presume that you worked more than 40 hours in such month and any subsequent month before you give notice that you have ceased Disqualifying Employment. In addition, if, after you retire, you work in Disqualifying Employment for any number of hours after Normal Retirement Age for a contractor at a building or construction site and fail to give timely notice to the Fund Office of such employment, the Fund will presume that you engaged in such work for as long as the contractor has been and remains actively engaged at that site. You will have the right to overcome these presumptions by establishing to the satisfaction of the Trustees that your work was not in fact an appropriate basis under the Plan for suspension of benefits.

Suspension of Pension Payments

If you are under Normal Retirement Age (65) and you perform Disqualifying Employment in excess of the limited exceptions under the Plan, your monthly pension benefit will be suspended. For more information regarding these exceptions please refer to page 38 of the Summary Plan Description which can be found at www.smwnpf.org or contact the Fund Office. **Note:** In addition to any other applicable suspension periods, your pension will be suspended for an additional six months for every calendar quarter in which you work one hour or more in the Sheet Metal Industry for an employer that is not signed to a Union collective bargaining agreement. Additionally, if you failed to inform the Fund of work in Disqualifying Employment that you were doing at the time your benefit became effective, you will not be considered retired and you will have to reimburse the Fund for any payments received since retirement.

If you are age 65 or older and you perform Disqualifying Employment, your monthly pension benefit will be suspended for any month or months in which you are paid for more than 40 hours in Disqualifying Employment. If your benefits are suspended, the Fund Office will notify you in writing of the reasons for the suspension. You may file a written request for review of the suspension within 180 days of receipt of the notice.

Resuming Pension Payments

You must notify the Fund Office in writing when you stop working in Disqualifying Employment. Your benefits will then resume, subject to any additional months of suspension. Your monthly benefit amount will be recomputed based on your age at the time benefits resume, reduced by the number of months you previously received benefits. If you returned to

work without notifying the Fund, the Fund will expect repayment of monthly amounts paid, plus interest, while you worked and may recoup those amounts from future benefit payments after you stop working.

If you have any questions concerning work after retirement, you should contact the Fund Office in writing at Sheet Metal Workers' National Pension Fund, 8403 Arlington Blvd., Suite 300, Fairfax, VA 22031 or by e-mail at info@smwnpf.org. Please be sure to include your name and your local union in all correspondence.

Sincerely,

Fund Office

cc: Local Unions