

Sheet Metal Workers' Pension Plan

OF SOUTHERN CALIFORNIA, ARIZONA & NEVADA

P.O. BOX 10067

MANHATTAN BEACH, CA 90266-8567

PHONE: (800) 947-4338

PHONE: (310) 798-6572

FAX: (310) 798-5092

IMPORTANT NOTICE AND SUMMARY OF MATERIAL MODIFICATIONS

To: Active and Retired Plan Participants, Sheet Metal Workers' Pension Plan of Southern California, Arizona and Nevada

From: Board of Trustees

Date: December 30, 2021

Re: 55/25 Rule Extension; Special Amnesty Rule for Pensioners Who Leave 55/25 Rule Employment from January 1, 2022 through June 30, 2022; and 55/25 Rule Contribution Requirement

We are pleased to advise you that the Board of Trustees has determined to continue the 55/25 Rule in effect for one additional year, through December 31, 2022. The Board may consider an additional extension next year (in 2022).

In addition, please be advised of the following changes regarding the 55/25 Rule.

Special One-Time Only Amnesty Rule for Pensioners Who Leave 55/25 Rule Employment from January 1, 2022 through June 30, 2022

Under the rules of the Plan, 55/25 Rule employees are pensioners age 55 and over with at least 25 years of pension credit from the Plan who apply for and receive advance approval from their SMART local union and the Board of Trustees of the Plan to return to work for an unlimited number of hours in sales or safety for a specific contributing employer – in what would otherwise generally be considered suspendable employment under Plan rules, while continuing to receive monthly pension benefits from the Plan. 55/25 Rule employees may not “work with the tools,” perform related supervision, or perform work (other than that specifically allowed by the 55/25 Rule) claimed by the SMART International Union. 55/25 Rule employees must be paid by their employer, as a minimum, regular journeyman wages in the jurisdiction, not including fringe benefits, for all hours worked, or at such rate as the bargaining parties in the jurisdiction may agree. Other terms and conditions apply under Plan rules.

The Board of Trustees, on December 16, 2021, adopted an *Enforcement Policy on 55/25 Rule*, to prevent and police potential misuse of the 55/25 Rule by 55/25 Rule pensioners who, intentionally or not and with or without the knowledge and approval of their employers, may have performed work outside of approved “sales” and “safety” activities under the 55/25 Rule, and to help ensure that there exists a legally required “separation from service” before a pensioner returns to work under the 55/25 Rule.

As part of this *Enforcement Policy*, the Board is implementing a special one-time only amnesty rule for pensioners who leave 55/25 Rule employment from January 1, 2022 through June 30, 2022. The amnesty rule contains the following two parts:

1. If a pensioner *terminates their approved 55/25 Rule employment during the special window period of January 1, 2022 through June 30, 2022*, the Board will not undertake any new or additional inquiry into whether the pensioner may have violated the 55/25 Rule by performing work that fell outside of approved sales or safety work (and thus may have constituted “suspendable employment”) under Plan rules.
2. Under current Plan rules, a pensioner who works in suspendable employment (including Covered Employment for a contributing employer) is not entitled to pension benefits for the calendar months of such employment, plus a minimum six additional calendar months (but not beyond Normal Retirement Age). However, if a pensioner *both terminates their approved 55/25 Rule employment and returns to Covered Employment* during this special one-time only amnesty period, the pensioner’s monthly pension benefits will still be suspended during the months of such employment, but *their benefits will not be suspended for a minimum six additional months*. To be eligible for this relief from the minimum six additional months suspension period, the pensioner must terminate 55/25 Rule employment and voluntarily return to Covered Employment for a continuous period of Covered Employment that begins between January 1, 2022 and June 30, 2022. The continuous period of Covered Employment may continue past June 30, 2022 but it must begin during the first six months of 2022. For purposes of this special relief, a continuous period of Covered Employment means a period of Covered Employment that includes no work in Non-Covered Sheet Metal Service and during which no pension benefits are paid. However, the continuous period of Covered Employment may include months during which no Covered Employment is performed and may include work as an owner, shareholder, partner, or sole proprietor of a contributing employer, or work in a management position with a contributing employer.

If a 55/25 Rule pensioner chooses *not to take advantage of this special amnesty rule*, and chooses instead to maintain their 55/25 Rule status and continue to work in an approved sales or safety position as outlined in their signed 55/25 Rule Agreement and Application, the pensioner must do so with the understanding that the 55/25 Rule work rules will be *strictly enforced* by the Board. Any pensioner who is found to be working, or to have worked, outside of those rules, *whether now or in the past*, will be subject to all of the penalties for “suspendable employment” and “Non-Covered Sheet Metal Service” under Plan rules. In addition, if such work is determined to be “Covered Employment,” the pensioner’s 55/25 Rule employer must pay required contributions, plus liquidated damages and other penalties and fees, retroactive to the start of such employment.

Related Processes and Procedures

To lessen the impact on 55/25 Rule pensioners who wish to return to Covered Employment, transition to an approved management role, maintain their current 55/25 Rule status, or fully retire

during this special six-month amnesty period (January 1, 2022 through June 30, 2022), the Plan encourages 55/25 Rule pensioners, and local unions and contractor associations with whom pensioners may consult about this issue, to note the following related processes and procedures:

- 55/25 Rule Pensioners who wish to fully retire should inform the Administrative Office for the Plan (SMBPAC) of the date when they will no longer be working for the contractor of record, and ensure that they do not work any hours in the month in which they fully retire (if prior to Normal Retirement Age).
- 55/25 Rule pensioners transitioning to a management role with their 55/25 Rule employer would relinquish their pension eligibility on the first day of the month they moved off of the 55/25 Rule to the management role and would need to relinquish their Union membership via withdrawal card at the same time. For pensioners who have not reached Normal Retirement Age under Plan rules (generally age 65), work in a management role for a contributing employer to the Plan *does* constitute suspendable employment under Plan rules, even if the work is not in Covered Employment. (For pensioners who have reached Normal Retirement Age, different rules apply; these pensioners should contact the Pension Department at SMBPAC for more information.)
- 55/25 Rule pensioners considering a return to Covered Employment are encouraged to return at the beginning of a month, because pensioners must give up their pension benefits for each month in which they work even one hour (prior to Normal Retirement Age). Pensioners who receive a benefit for a month, then return to suspendable Covered Employment during that month, must reimburse the Plan for the “overpayment.”
- Pensioners should contact the Pension Department at SMBPAC *before* they return to Covered Employment, to stop pension benefits from being paid while they are working and to avoid incurring Plan penalties for failure to notify the Plan within 30 days of their return to Covered Employment.
- Local union paperwork converting a 55/25 Rule pensioner from retiree to active status should be carefully dated concerning the actual (or proposed) first date of employment, not just the date of dispatch.
- The local union should note in the 55/25 Rule pensioner’s file that the pensioner is returning to Covered Employment during the Pension Plan’s special six-month amnesty period (January 1, 2022 through June 30, 2022).
- 55/25 Rule pensioners receiving any kind of health and welfare benefits from the Health Plan should contact the Eligibility Department at SMBPAC to assess the impact of a return to Covered Employment on their specific situation.
- Pensioners wishing to receive National Pension Fund benefits should contact the fund office for the NPF in Virginia to learn how NPF rules and restrictions concerning a return to Covered Employment apply to their specific situation, *before* they make any decision on returning to

Covered Employment. SMBPAC is *not* the administrator for the National Pension Fund.

Helping Ensure a Legally Required Separation from Service

55/25 Rule pensioners may work only in non-bargaining unit positions in which they may not engage in Covered Employment. Nevertheless, in order to help ensure the existence of a legally required separation from service before a pensioner is allowed to return to work with a contributing employer in 55/25 Rule employment, the Board's *Enforcement Policy* requires that pensioners must wait until they have received at least two monthly pension benefits before submitting an application to the Plan for approval to return to work under the 55/25 Rule effective no earlier than the first day of the next month after the application is submitted.

55/25 Rule Equalization Contributions for Employers of New 55/25 Rule Employees

In December 2020, the Board adopted a second update to the Funding Improvement Plan under which the Pension Plan is operating as required by the federal Pension Protection Act ("PPA"). The second updated Funding Improvement Plan required that, effective for pensioners approved to work under the 55/25 Rule by the Board of Trustees of the Plan on or after January 1, 2021, the employer of such pensioner must pay to the Plan 55/25 Rule equalization contributions of \$3,000.00 per month to help defray the costs to the Plan of the 55/25 Rule. As before, pensioners working under the 55/25 Rule do not earn or accrue any benefits or credits under the Plan for their work.

Earlier this year, the Board temporarily suspended implementation of the 55/25 Rule equalization contribution requirement, pending further Board direction. On December 16, 2021, the Board adopted a third update to the Funding Improvement Plan, effective January 1, 2021. This third updated Funding Improvement Plan made only one change to the Plan, reinstating the \$3,000.00 per month 55/25 Rule equalization contribution requirement but delaying its implementation date one year, from January 1, 2021 to January 1, 2022. As before, the contribution requirement applies for employers of pensioners approved to work under the 55/25 Rule on or after January 1, 2021.

As we have done before, we remind you, on an informational basis only, that it is the understanding of this Plan that the Sheet Metal Workers' National Pension Fund ("NPF"), which is not affiliated with this Plan, takes the position that post-retirement employment with a contributing employer under the 55/25 Rule constitutes "Disqualifying Employment" under NPF rules for NPF participants under the age of 65, for which the participant's monthly pension benefits from the NPF may be suspended. The NPF may also take the position in an individual case that 55/25 Rule work at or after age 65 and before the participant's "Required Beginning Date" under NPF rules constitutes "Disqualifying Employment." Interested individuals are encouraged to check with the NPF about their benefits and the rules under that plan. The Board of Trustees of this Plan has no authority to and does not speak on behalf of the NPF, and these statements should not be considered authoritative.

And, as we reminded you before on an informational basis, it is the understanding of this Plan that the NPF and other national fringe benefit funds, such as ITI and SMOHIT, take the position (contrary to the position of this Plan) that pensioners working in sales under the 55/25 Rule are performing covered work, and that their employers must pay regular fringe benefit contributions to the national plans for such work. The national plans also may take the position, contrary to the position of this Plan, that in some cases 55/25 Rule employees working in approved safety positions are performing covered work for which contributions to the national plans must be paid. This Plan has no ability to restrict or control the position of the national plans with respect to their interpretation of covered work under those plans. Again, these statements should not be considered authoritative.

We remind you that under this Plan, participants may, subject to Plan rules, leave active bargaining unit employment to work as an owner, shareholder, or partner, or in management, for a contributing employer, without incurring a “separation in service” or “break in covered employment” that could cause the participant to become “inactive” under Plan rules. The Board encourages employees (and their employers) to consider non-bargaining management or ownership positions as potentially beneficial alternatives to 55/25 Rule employment.

If you have any questions about this Important Notice and Summary of Material Modifications, or for further information about the Pension Plan, please feel free to contact the Administrative Office at (800) 947-4338 or consult your Pension Plan Summary Plan Description (“SPD”). You may also request from the Administrative Office a copy of the third updated Funding Improvement Plan.

Please keep this Important Notice and Summary of Material Modifications with your Pension Plan SPD and other important Plan documents.

Aviso a los participantes que hablan español: Si tiene alguna pregunta tocante este aviso, o requiere alguna otra información tocante a su cobertura bajo el Plan de Pensiones, por favor no dude en comunicarse con la Oficina Administrativa al 800-947-4338, donde habrá varios representantes bilingües que con gusto le ayudarán.

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