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Release #26-2026
nyc.gov/doi

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 15, 2026

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DOI ISSUES PUBLIC REPORT ON RISKS CREATED BY THE POLICE PENSION FUND'S APPLICATION OF ACCIDENT DISABILITY BENEFITS

Nadia I. Shihata, Commissioner of the New York City Department of Investigation ("DOI"), issued the following public Report today on risks created by the application of accident disability benefits by the Police Pension Fund ("PPF"). The investigation was prompted after DOI received allegations in 2025 that multiple officers of the New York City Police Department ("NYPD") received accident disability benefits yet were engaged in activities inconsistent with their entitlement to those benefits. In addition, at the end of 2025, several senior members of the NYPD drew the media's attention when it was reported they had applied for lucrative accident disability retirement packages as the Adams' administration was winding down. The Report discusses how the PPF's administration of the accident disability program creates the risk that accident disability benefits will be improperly paid and includes facts surrounding the provision of accident disability benefits to several former high-ranking police personnel. To safeguard public funds and promote public trust in the PPF, DOI issued five Policy and Procedure Recommendations ("PPRs") to the PPF regarding its administration of the accident disability program. The PPF rejected three of DOI's recommendations and accepted two. A copy of the Report follows this release and can also be found on DOI's website: Public Reports - Department of Investigation

DOI Commissioner Nadia I. Shihata said, "As this Report makes clear, the current manner in which accident disability pension benefits are administered creates risks for improper payments. DOI's recommendations provide tangible methods to remedy these vulnerabilities. No New Yorker wants to stand in the way of NYPD officers rightfully receiving accident benefits when they suffer injuries on the job and are unable to work. But the PPF's current administration of these benefits is vulnerable to misuse and does not employ standards consistent with those used in similar law enforcement retirement systems, such as the system for state police. I want to thank the PPF for its cooperation during this investigation and urge it to reconsider the recommendations it rejected, as DOI believes they will further protect against the improper use of these critical City funds."

The PPF makes retirement payments to over 50,000 retired NYPD officers annually, with total pension payments reaching $3.59 billion in fiscal year 2025. About a quarter of those payments, $935 million in fiscal year 2025, were made to officers who were receiving "accident disability" retirement—a program for officers who retired as a result of a line-of-duty injury that rendered them disabled. Over $100 million of those payments were made to officers who would not otherwise have been eligible for retirement because they had not yet met the minimum age or period of service that would entitle them to retire.

The police retirement system is designed to ensure that those who serve and protect the public are provided for if their service renders them unable to continue working. However, the features of the system that provide that assurance also provide incentives for NYPD officers to claim accident disability. An officer who is not yet eligible to retire may nevertheless do so if they are approved for disability. And officers who receive accident disability are paid more by the pension system—three-quarters of their "final average salary" as opposed to the half offered in a standard retirement package.

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Members of the NYPD's police force assigned to positions in the competitive service are automatically enrolled in the PPF and fund members contribute a portion of their salaries to the Fund in exchange for the receipt of retirement allowances and other benefits upon their retirement. The rights of Fund members differ based on what "tier" they belong to, with officers appointed to the NYPD between 1973 and 2009 belonging to Tier II and officers appointed thereafter belonging to Tier III. Upon retirement, most Fund members draw one of three kinds of retirement benefits— service retirement, vested retirement, ordinary disability retirement, or accident disability retirement. Accident disability retirement entitles members to enhanced benefits if they become disabled after a line-of-duty injury. Both Tier II and Tier III accident disability recipients receive 75% of their final average salaries as a retirement allowance, regardless of their term of service.

Authority to manage the Fund is vested in its Board of Trustees, which consists of twelve members representing the interests of different elected and appointed officials as well as of several police unions. As both the Fund's fiduciaries and as public officers, the Board of Trustees "are charged with the duty to disburse and expend money for the purposes and in the manner prescribed by law," and "are obligated to exercise skill and diligence in the performance of their duties, to preserve and protect trust property, to collect debts owing to the trust and to enforce claims on behalf of the trust."

To prevent abuse of the accident disability system, state and local law are equipped with safeguards. An officer cannot receive accident disability unless the Fund's Medical Board — a board consisting of three doctors, one appointed by the PPF's Board of Trustees, one by the Commissioner of Health, and one by the Commissioner of Citywide Administrative Services — evaluates him or her and concludes that he or she is disabled. The PPF's Board of Trustees must then conclude that the disability was caused by a service-related injury (and not the fault of the officer) before approving accident disability. Even after, the PPF may call members for re-examination on an annual basis to determine whether they are or could be gainfully employed. These mechanisms are designed to ensure that the worthwhile protections for disabled officers are not abused to the detriment of the public fisc.

DOI found that the PPF's Medical Board assesses disability applications without regard to an officer's actual job duties. All officers are assessed on the same standards; even senior officers who have held desk jobs for years are evaluated to determine whether they can apprehend dangerous subjects in fast-paced field operations. The Medical Board's assessments stand in stark contrast to those conducted in the system for state police officers, who are assessed for accident disability based on their actual job duties, despite both systems operating under virtually identical legal frameworks.

In addition, DOI found the PPF almost never utilizes a mechanism that allows the PPF to call accident disability retirees for medical re-examination to determine whether they could be gainfully employed, such that they could again contribute to the City. Use of this tool would allow the City to benefit from the contributions of individuals who will be paid by the City no matter what due to their status as accident disability retirees.

DOI issued the following five recommendations to the PPF:

1. The PPF should adopt regulations, training, and guidance to require that accident disability applications will be evaluated based on an officer's actual job duties.
2. The PPF should adopt regulations to govern how and when members will be called in for medical re-examination.
3. The PPF should require accident disability retirees who have not yet reached their elected period of service to certify periodically that their disability persists.
4. The PPF should create an intake process to solicit information from the public relevant to its medical re-examination authority.
5. The Board of Trustees should vote on whether to require the Officers referred to as Officers A, B, C, and D in the Report to undergo medical examination pursuant to the safeguards provision.

The PPF informed DOI that it has accepted Recommendations #4 and #5, but that it has rejected Recommendations #1, #2, and #3.

DOI Commissioner Shihata thanked Executive Director of the PPF Kevin Holloran and his staff for their cooperation in this investigation. Commissioner Shihata also thanked NYPD Commissioner Jessica S. Tisch and her staff for their assistance.

At DOI, the investigation was conducted by Special Investigative Counsel Zachary Bannon of DOI's Office of the Inspector General for Special Investigations with the assistance of Legal Fellow Dylan Evans and Investigative Analyst Gabriella Cerrito under the supervision of Deputy Commissioner for Legal Affairs and General Counsel Andrew Sein, Deputy Commissioner/Chief of Investigations Michael P. Mullahy, and Deputy Commissioner of Strategic Initiatives Christopher Ryan.

New York City
Department of Investigation

Issues in the Application of "Accident Disability" at the Police Pension Fund

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Commissioner

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September 2026

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The system is the system. I didn't make up the system.

- John Chell, former NYPD Chief of Department

I. Introduction and Executive Summary.

New York City's Police Pension Fund (the PPF or the "Fund") makes retirement payments to over 50,000 retired New York City Police Department (NYPD) officers annually, with total pension payments reaching $3.59 billion in fiscal year 2025.[1] About a quarter of those payments, $935 million in fiscal year 2025, were made to officers who were receiving "accident disability" retirement—a program for officers who retired as a result of a line-of-duty injury that rendered them disabled. Over $100 million of those payments were made to officers who would not otherwise have been eligible for retirement because they had not yet met the minimum age or period of service that would entitle them to retire.

The police retirement system is designed to ensure that those who serve and protect the public are provided for if their service renders them unable to continue working. However, the features of the system that provide that assurance also provide incentives for NYPD officers to claim accident disability. An officer who is not yet eligible to retire may nevertheless do so if they are approved for disability. And officers who receive accident disability are paid more by the pension system—three-quarters of their "final average salary" as opposed to the half offered in a service retirement package.

To prevent abuse of the accident disability system, state and local law are equipped with safeguards. An officer cannot receive accident disability unless the Fund's Medical Board evaluates him or her and concludes that he or she is disabled. The PPF's Board of Trustees must then conclude that the disability was caused by a service-related injury (and not the fault of the officer) before approving accident disability. Even after, the PPF may call members for re-examination on an annual basis to determine whether they are or could be gainfully employed. These mechanisms are designed to ensure that the worthwhile protections for disabled officers are not abused to the detriment of the public fisc.

In 2025, the Department of Investigation (DOI) received information alleging that multiple officers receiving accident disability were engaged in activities inconsistent with their entitlement to those benefits. And at the end of 2025, several senior members of the NYPD drew the media's attention when it was reported that

[1] *Newly Retired NYPD Retirees Average $100,000+ in Pension*, Empire Center (Nov. 20, 2025), *available at* https://www.empirecenter.org/publications/newly-retired-nypd-retirees-average-100000-in-pension/.

they had applied for lucrative accident disability retirement packages as the Adams administration was winding down.[2]

Following these reports, DOI conducted an investigation into how claims for accident disability are evaluated at the PPF. As explained in more detail below, DOI has identified two features of the PPF's administration of the accident disability program that create the risk that accident disability benefits will be improperly paid.

- First, the Medical Board assesses disability applications without regard to an officer's actual job duties. All officers are assessed on the same standards; even senior officers who have held desk jobs for years are evaluated to determine whether they can apprehend dangerous subjects in fast-paced field operations. The Medical Board's assessments stand in stark contrast to those conducted in the system for state police officers, who are assessed for accident disability based on their actual job duties, despite both systems operating under virtually identical legal frameworks.

- Second, the PPF almost never utilizes a mechanism that allows the PPF to call accident disability retirees for medical re-examination to determine whether they could be gainfully employed, such that they could again contribute to the City. Use of this tool would allow the City to benefit from the contributions of individuals who will be paid by the City no matter what due to their status as accident disability retirees.

To safeguard public funds and promote public trust in the PPF, DOI has issued five Policy and Procedure Recommendations to the PPF regarding accident disability. One of these recommendations tasks the Fund's Medical Board to assess accident disability applicants' ability to work against their actual job duties. Three others task the PPF to establish procedures designed to better utilize a mechanism for ensuring that accident disability benefits are limited to retirees who cannot be gainfully employed. And the final recommendation tasks the PPF to vote on whether four accident disability retirees who DOI learned may no longer be eligible for accident disability should be called in for re-examination. As explained below, the PPF has accepted two of DOI's recommendations and rejected three. A more thorough explanation of DOI's findings and these recommendations are set forth below,

[2] Graham Rayman, et al., *Retired NYPD Chief John Chell approved for $295K annual disability pension*, THE NEW YORK DAILY NEWS (Oct. 24, 2025), *available at* https://www.nydailynews.com/2025/10/24/retired-nypd-chief-john-chell-approved-for-295k-annual-disability-pension/; Graham Rayman, et al., *NYPD boss gets lucrative disability pension rank-and-file cops often have to fight for*, THE NEW YORK DAILY NEWS (Nov. 16, 2025), *available at* https://www.nydailynews.com/2025/11/16/nypd-boss-gets-lucrative-disability-pension-lawyers-say-rank-and-file-cops-have-to-fight-for/.

starting first with how the PPF assesses accident disability applications, then turning to how it uses its power to re-examine beneficiaries.

II. The PPF's Assessment of Accident Disability Applications.

NYPD officers who retire on accident disability receive a lifetime retirement allowance worth three-quarters of their final average salary. This section explores the PPF's process for evaluating accident disability applications, first by explaining the basics of the police pension system, then by explaining, and finally evaluating, the standards used by the PPF to determine whether an officer is entitled to enhanced accident disability benefits.

A. Basics of the Police Pension Fund.

Members of the NYPD's police force assigned to positions in the competitive service are automatically enrolled in the Police Pension Fund.[3] Authority to manage the Fund is vested in its Board of Trustees, which consists of twelve members representing the interests of different elected and appointed officials as well as of several police unions.[4] As both the Fund's fiduciaries and as public officers, members of the Board of Trustees "are charged with the duty to disburse and expend money for the purposes and in the manner prescribed by law," and "are obligated to exercise skill and diligence in the performance of their duties, to preserve and protect trust property, to collect debts owing to the trust and to enforce claims on behalf of the trust."[5]

Fund members contribute a portion of their salaries to the Fund in exchange for the receipt of retirement allowances and other benefits upon their retirement.[6] The rights of Fund members differ based on what "tier" they belong to, with officers appointed to the NYPD between 1973 and 2009 belonging to Tier II and officers appointed thereafter belonging to Tier III.[7]

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[3] Ad. Code § 13-215(a).

[4] Ad. Code § 13-216. While the NYPD has one representative on the PPF's twelve-member Board of Trustees, the PPF is a distinct agency that operates independently of the NYPD.

[5] Corporation Counsel Opinion 108,618 (Jan. 19, 1978).

[6] Ad. Code § 13-225.

[7] *Summary Plan Descriptions*, POLICE PENSION FUND, *available at* https://www.nyc.gov/content/nycppf/pages/summary-plan-descriptions. Tier II benefits "are governed by title 13 of the Administrative Code and article 11 of the Retirement and Social Security Law" and Tier III benefits "are governed by Retirement and Social Security Law article 14." *Matter of Lynch v. City of New York*, 40 N.Y.2d 7, 12 (2023). Where Article 14 does not speak to an issue, title 13 of the Administrative Code also applies to Tier III members. RSSL § 519(1); *see Matter of Lynch*, 40 N.Y.2d at 12 ("Under Retirement and Social Security Law § 519(1), tier 3 members may enjoy benefits established in title 13 of the Administrative Code or elsewhere so long as those benefits are consistent with the provisions of article 14.").

Upon retirement, most Fund members draw one of four kinds of retirement benefits—service retirement, vested retirement, ordinary disability retirement, or accident disability retirement. Broadly, a service retirement allowance entitles a member to payments after they have met a minimum requirement for years of service, with Tier II members generally receiving half of their final average salary[8] and Tier III members generally receiving one-fiftieth of their final average salary[9] multiplied by their years of credited service.[10] A vested retirement allowance entitles members who have completed five or more years of service, but fewer years than their elected period of service, to benefits similar to Tier III service retirement benefits.[11] Ordinary disability retirement entitles members to similar benefits after a shorter term if they have been rendered disabled from the performance of their duties.[12] Finally, accident disability retirement entitles members to enhanced benefits if they become disabled after a line-of-duty injury. Both Tier II and Tier III accident disability recipients receive 75% of their final average salaries as a retirement allowance, regardless of their term of service.[13]

B. How the PPF Evaluates Accident Disability Applications.

Before receiving accident disability retirement, members must submit to an examination by the Medical Board—a board consisting of three doctors, one appointed by the PPF's Board of Trustees, one by the Commissioner of Health, and one by the Commissioner of Citywide Administrative Services.[14] For Tier II members, the Medical Board evaluates whether the member is "physically or mentally incapacitated for the performance of city-service, as a natural and proximate result of such city-service."[15] For Tier III members, the evaluation considers whether the member "is physically or mentally incapacitated for performance of duty as the

[8] RSSL § 443(a) ("The salary base used for the computation of benefits upon retirement, hereinafter called in this article final average salary, . . . shall be the average salary earned by such a member during any three consecutive years which provide the highest average salary").

[9] RSSL § 512(a) defines final average salary as "the average wages earned by such a member during any three consecutive years which provide the highest average wage."

[10] RSSL § 504(a).

[11] Ad. Code § 13-256.

[12] For Tier II, after ten years of service, members can receive their full retirement allowance if they are "physically or mentally incapacitated for the performance of duty and ought to be retired." Ad. Code §§ 13-251, 13-257(a). For Tier III, after five years of service, members can receive the greater of 33% of their final average salary or 2% multiplied by their years of credited service if they become eligible for federal disability benefits. RSSL § 506(a), (b).

[13] Ad. Code § 13-258 (Tier II); RSSL § 507(c)(3) (Tier III).

[14] Ad. Code § 13-223.

[15] Ad. Code § 13-252. "City-service" is defined as "service in the police force in the department." Ad. Code § 13-214(3).

natural and proximate result of an accident sustained in such active service."[16] The Board of Trustees then vote on whether to grant accident disability.[17] The Medical Board's determination as to whether an individual is disabled is binding on the Board of Trustees, but the Board of Trustees may disagree on whether an injury was caused by a member's service.[18]

The PPF has not promulgated regulations further describing the conditions under which a member should be considered "incapacitated for the performance of city-service" or "duty," as the relevant legal authorities use these terms.[19] In practice, the PPF informed DOI that, for both Tier II and Tier III members, the Medical Board "determines whether a member is physically or mentally incapacitated from the performance of city-service by evaluating whether a member can perform the essential functions of a police officer." Documents produced by the Department of Citywide Administrative Services regarding an upcoming police officer civil service examination explain those functions in more detail. Among other functions, police officers are required to be able to "intervene in . . . situations involving . . . emotionally disturbed persons," to conduct "crowd control for large-scale events," to "carry[] an injured adult with assistance," and to "engag[e] in hand to hand struggles to subdue a suspect resisting arrest." As one litigant characterized it:

> The commonly accepted standard in determining if a disability pension applicant is "incapacitated for city service" has always been whether an applicant is capable of performing the "essential job functions" of a police officer. Said essential job functions are the regular and customary tasks of a standard full duty officer including: apprehending criminals, handling a firearm, subduing emotionally disturbed individuals, [and] riot control.[20]

The PPF's practice of holding all officers to the same performance standard can lead to unexpected results, particularly in accident disability applications for senior members of the NYPD who are furthest removed from the "essential functions of a police officer" and who stand to gain the most from retiring on accident disability. For example, John Chell retired from the NYPD at the end of 2025 following

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[16] RSSL § 507(b). Tier III members are alternatively eligible for accident disability if they are "eligible for primary social security disability benefits and w[ere] disabled as the natural and proximate result of an accident sustained in such active service." RSSL § 507(a). Eligibility for these federal benefits turns on whether an individual has "the ability to do any substantial gainful activity." 20 C.F.R. § 404.1505(a). This definition is significantly more restrictive than the alternative requirements and is therefore not discussed further in this report.

[17] Ad. Code § 13-216.

[18] *See Canfora v. Board of Trustees*, 60 N.Y.2d 347, 351 (1983) ("While the board is . . . bound by the medical board's determination of disability, it is not bound by the medical board's determination that said disability resulted from a service-related accident.").

[19] Administrative Code § 13-217 entitles the PPF to adopt rules and regulations.

[20] *Matter of Knudsen v. Kelly*, 2008 N.Y. Slip. Op. 30638(U) (Sup. Ct. 2008).

approximately three years at the top of NYPD's uniformed leadership, first as Chief of Patrol, then as Chief of Department.[21] Public reporting indicates that Chell applied for and received an accident disability package totaling $295,919.64 per year following an ankle injury suffered in July 2024.[22] Based on the PPF's standards for medical evaluations, Chell would have been evaluated by the Medical Board for whether he could perform the essential function of a police officer—*e.g.*, whether he could successfully grapple with a suspect resisting arrest—rather than his job duties as Chief of Department.[23]

C. Evaluation of the PPF's Approach.

There is little legal authority on whether the PPF's policy to evaluate all accident disability applicants on an "essential functions" standard is consistent with the law. However, there is substantial authority interpreting analogous provisions of the pension laws that apply to state police officers, who may receive accident disability if they are "[p]hysically or mentally incapacitated for performance of duty as the natural and proximate result of an accident."[24] Those cases uniformly hold that the "performance of duty" means one's *actual* duties, not the normal duties of a police officer.[25] In 1995, the New York Comptroller codified that standard into the regulations governing its pension fund:

> The sections of the Retirement and Social Security Law which provide the eligibility requirements for disability retirement benefits require applicants to be permanently incapacitated for the performance of duty. It is clear under the pertinent statutory provisions and case law that the issue of permanent incapacity must be determined on the basis of the individual's own actual duties.[26]

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[21] Yoav Gonen, *NYPD's Controversial Top Chief to Retire*, GOTHAMIST (Oct. 7, 2025), *available at* https://www.thecity.nyc/2025/10/07/john-chell-retires-nypd-chief-adams/.

[22] Graham Rayman, et al., *Retired NYPD Chief John Cheff approved for $295K annual disability pension*, THE NEW YORK DAILY NEWS (Oct. 24, 2025), *available at* https://www.nydailynews.com/2025/10/24/retired-nypd-chief-john-chell-approved-for-295k-annual-disability-pension/.

[23] This report expresses no opinion as to whether Chell's accident disability application would have been granted if he had been evaluated based on his actual job responsibilities.

[24] RSSL § 363(a)(1).

[25] *See, e.g.*, *Glaski v. Regan*, 115 A.D.2d 111, 111-12 (3d Dep't 1985); *Leger v. New York State Comptroller*, 212 A.D.2d 901, 902 (3d Dep't 1995); *Paeno v. McCall*, 235 A.D.2d 766, 767 (3d Dep't 1997).

Courts have interpreted the provision of the Retirement and Social Security Law that applies to corrections officers, § 507-a, similarly. *Kilfoile v. McCall*, 239 A.D.2d 836 (3d Dep't 1997) (rejecting the argument that the "issue of permanent disability is to be determined by gauging [a] petitioner's physical capabilities against the duties of a correction officer assigned to a correctional facility, even if he was not required to perform those duties").

[26] 2 N.Y.C.R.R. § 364.1.

On the recommendation of consultants hired to review New York's disability retirement programs, the Comptroller also promulgated regulations on how to determine an applicant's actual job duties.[27]

Given the well-established authority interpreting the state police pension laws, there are significant questions about whether the PPF's practice of relying on essential functions rather than actual duties is consistent with the law. With respect to Tier III members, the language in both statutes, requiring incapacity from "performance of duty," is identical and should be accorded the same meaning.[28] And with respect to Tier II members, the Administrative Code requires incapacity from "performance of city-service." While the language is not identical, courts also interpret language in the Tier II accident disability provision that is "nearly identical" to the provision applicable to state officers similarly.[29]

In fact, the PPF recognizes the propriety of an "actual duties" standard in other contexts. In contrast with its medical evaluations, the PPF considers actual duties when assessing the *causation* of an injury. For a member to be entitled to accident disability, their injury must have been "a natural and proximate result of [their] city-service," mirroring the requirement that they be incapacitated from "performance of city-service."[30] When evaluating John Chell's application for accident disability, the Board of Trustees debated whether the injury he incurred doing field work was within the scope of his duties as Chief of Department, with one member arguing that "[i]t's not often that the Chief of Department is in the field. It's an administrative position," while another argued that fieldwork is a "leadership function." The Board of Trustees appeared ill-equipped to assess Chell's actual job duties, with one member admitting that in assessing Chell's application, he had to resort to information he found online describing the Chief of Department position. However, there was no disagreement that Chell's actual job duties should be assessed in evaluating the causation element of Chell's accident disability application.

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[27] 2 N.Y.C.R.R. §§ 364.2, 364.3.

[28] *United States v. Davis*, 588 U.S. 445, 458 (2019) ("[W]e normally presume that the same language in related statutes carries a consistent meaning.").

While this report has focused on the PPF's accident disability program, it should be noted that Tier II members are entitled to *ordinary* disability based on an incapacity from "performance of duty" standard, as well. Ad. Code § 13-251. Tier III members receive ordinary disability only if they meet a more demanding standard: "[E]ligib[ility] for primary social security disability benefits." RSSL § 506(a).

[29] *Cacciatore v. Tisch*, 2025 N.Y. Misc. Lexis 6259, at *8-9 (N.Y. Sup. July 2, 2025).

[30] Ad. Code § 13-252. Some health conditions—for example, those "caused by a qualifying World Trade Center condition," Ad. Code § 13-252.1, and qualifying "impairment[s] of health caused by diseases of the heart," General Municipal Law § 207-k—are presumed to have been incurred in the performance of police duty under specialized statutes. While those statutes alter the standard for assessing *causation* of a disability, they do not alter the degree of impairment that must be met for a disability retirement applicant to qualify for accident disability benefits.

To ensure that PPF members are evaluated for accident disability on the appropriate standards, DOI offers its first recommendation:

> *<u>Recommendation #1</u>: The PPF should adopt regulations, training, and guidance to require accident disability applications to be evaluated based on an officer's actual job duties.*[31]

Similar regulations were adopted by the New York State Comptroller in 1995 for the state police pension system. Those regulations clearly state that incapacity must be determined on the basis of an officer's actual duties.[32] Further, they require employers to submit "a written statement which accurately describes the duties of the applicant, as well as the physical or psychological requirements of the position," with an accident disability application.[33] Those written statements are required to be more specific and individualized than the civil service job descriptions applicable to the class of employees to which an applicant belongs.[34] And the state's regulations also explain when a disability application should be assessed based on an officer's pre-injury job duties compared to an officer's post-injury restricted job duties.[35]

The PPF's regulations on accident disability are currently limited, stating only that "[m]edical examination of a candidates [sic] for disability retirement shall be made by the Medical Board in accordance with the applicable provisions of the New York City Administrative Code or New York State Retirement and Social Security Law."[36] Adopting more comprehensive regulations setting forth an "actual duties" standard and the procedural steps required to discern an applicant's actual duties would create clearer expectations for applicants, the Medical Board, and the NYPD. Moreover, adopting a requirement that the NYPD inform the PPF of a disability applicant's actual duties on a case-by-case basis would help ensure that the PPF is not left to speculate about the scope of an applicant's duties, as the PPF had to do when assessing John Chell's application. Finally, clear regulations would reduce the risk that the public perceives the PPF to treat officers differently based on rank.

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[31] The PPF informed DOI that it declined to accept this recommendation. Nevertheless, the Medical Board may begin applying an "actual duties" standard if other City agencies determine that it is appropriate to do so. Two of the three members of the Medical Board are appointees of Mayoral agencies. Ad. Code § 13-223. Should City Hall disagree with the PPF, its two members can apply the appropriate standard and make appropriate findings, as the Medical Board operates by majority decision-making. *Matter of Bansley v. Safir*, 299 A.D.2d 185 (1st Dep't 2002). The Board of Trustees is subsequently bound by the Medical Board's medical decisions. *Canfora v. Board of Trustees*, 60 N.Y.S.2d 347, 351 (1983).

[32] 2 N.Y.C.R.R. § 364.1.

[33] 2 N.Y.C.R.R. § 364.2.

[34] *Id.*

[35] 2 N.Y.C.R.R. § 364.3.

[36] Rules and Regulations of the PPF, Rule 28.

In addition, Medical Board training and guidance should be updated to conform to the standards set forth above.[37] The Medical Board serves as the sole decision-making authority at the PPF on the issue of whether an accident disability applicant is incapacitated. Clear training and guidance is necessary to ensure that the Medical Board performs that duty even-handedly, assessing whether applicants can perform their actual job functions.

The PPF's choice of accident disability standard is of tremendous consequence to the City's budget. Recipients of accident disability benefits receive 50% higher retirement allowances than other retirees. And historically, members of the NYPD have retired on accident disability at rates many times greater than members of comparable pension systems. In 2015, the good-government group Empire Center for Public Policy, Inc., reported that 21% of NYPD members retired on accident disability, compared to 6% in New York State's system for police and firefighters.[38] In 1995, the rate of disability retirement for the NYPD was 41% compared to 19% in the state system, according to a consultant hired by the New York State Comptroller to study the issue.[39] These differences are unsurprising, given the more restrictive "actual duty" standard employed by the state compared to the "essential functions" standard employed by the PPF. Given that the PPF manages an almost billion-dollar accident disability program, these differences in accident disability rates may equate to hundreds of millions of dollars in pension expenses.

Moreover, ensuring fair standards for accident disability applicants is important to maintaining public trust. The PPF has received backlash due to a reported perception that senior leaders, like John Chell and former Deputy Commissioner for Community Affairs Mark Stewart, can obtain accident disability benefits more easily than the rank-and-file.[40] John Chell retired as the top-ranking uniformed member of the NYPD. Like Chell, Stewart's responsibilities at the NYPD as a Deputy Commissioner varied dramatically from the essential functions of a police officer. NYPD documents describing Stewart's role show that his position was largely managerial, overseeing several NYPD initiatives and representing the Police

[37] DOI currently has no visibility into the way the Medical Board is trained. DOI served a subpoena on the PPF on March 6, 2026, seeking materials related to the Medical Board's guidance and training but, to date, the PPF has not provided DOI with responsive material nor confirmed that it cannot locate any responsive material. On May 18, 2026, DOI instead requested that the PPF make a PPF representative of the Medical Board available for an informational interview. Again, the PPF has not facilitated the requested interview.

[38] E.J. McMahon, *NY's disability pension gambit,* Empire Center (June 11, 2015), *available at* https://www.empirecenter.org/publications/nys-disability-pension-gambit/.

[39] Buck Consultants, Inc., *Report to the Comptroller of the State of New York on Disability Benefits Available to Members of the New York State and Local Police and Fire Retirement System* (Feb. 1, 1995).

[40] Graham Rayman, et al., *NYPD boss gets lucrative disability pension rank-and-file cops often have to fight for*, THE NEW YORK DAILY NEWS (Nov. 16, 2025), *available at* https://www.nydailynews.com/2025/11/16/nypd-boss-gets-lucrative-disability-pension-lawyers-say-rank-and-file-cops-have-to-fight-for/

Commissioner in community and media relations. And most recently, former NYPD Chief of Training Juanita Holmes received an accident disability retirement allowance of over $350,000 a year following nearly four decades of NYPD service. While in that role, Holmes was responsible for overseeing officer training, she was nevertheless evaluated by the Medical Board for whether she could "perform[] the full duties of a New York City Police Officer." When Chell was asked for comment by the New York Daily News about his disability retirement, Chell stated: "The system is the system. I didn't make up the system."[41]

III. <u>The PPF's Use of the Safeguards Provision</u>.

The police pension system has a safeguard to ensure that officers who receive disability pensions before they have reached their retirement age return to service if they are able to do so. Specifically, the Administrative Code provides that the Board of Trustees of the PPF can call in pensioners below their retirement age for medical re-examinations annually.[42] If the Medical Board determines that the pensioner is "engaged in or able to engage in a gainful occupation" and the Board concurs, the pensioner is placed on civil service lists and given priority to return to available positions.[43] If thereafter the pensioner is "engaged in a gainful occupation" or "offered city-service," their retirement allowance is reduced to a level such that their total compensation (their retirement allowance plus his income) does not exceed the amount they would have made if they continued working in the NYPD and achieved the "title next higher than that held by [them] . . . when [they] . . . [were] retired."[44] Finally, if a pensioner refuses to submit to a examination, their pension is discontinued.[45]

This section of the Administrative Code, titled "Safeguards on disability retirement" (hereinafter the "safeguards provision"), is a useful tool for the City. It provides a check against the fallibility of the Medical Board's disability determinations and helps account for the fact that some pensioners may see their health improve. It provides a more lenient standard than an initial disability determination—whether an individual can engage in "gainful occupation" instead of full police duties—so that those who can contribute to the City's workforce are asked to do so. It ensures that pensioners who find lucrative work after their retirement do not receive a windfall from the pension system. And it allows the City to fill open positions with individuals who will be receiving payments from the City regardless.

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[41] Graham Rayman, et al., *Retired NYPD Chief John Chell approved for $295K annual disability pension*, THE NEW YORK DAILY NEWS (Oct. 24, 2025), *available at* https://www.nydailynews.com/2025/10/24/retired-nypd-chief-john-chell-approved-for-295k-annual-disability-pension/

[42] Ad. Code § 13-254(a).

[43] *Id.*

[44] *Id.*

[45] *Id.* § 13-254(b).

The safeguards provision has the potential to provide significant benefits to the City's budget—the PPF made over $100 million in accident disability payments to officers under the retirement age in Fiscal Year 2025. To determine how the PPF uses the safeguards provision (and how its use could be improved), DOI analyzed both the PPF's policies and historical use of the safeguards provision and information brought to DOI's attention regarding recipients of accident disability benefits. The findings and recommendations resulting from both analyses are set forth below.

A. The PPF's Policies and Practices on Use of the Safeguards Provision.

DOI asked the PPF for information regarding its use of the safeguards provision in recent years. From a policy perspective, the PPF's rules and regulations contain no mention of the safeguards provision and the PPF did not produce any other written policies governing the use of that provision. As a practical matter, since 2019, the PPF informed DOI that it has only required one individual to undergo medical re-examination pursuant to the safeguards provision. That individual was found not to be able to engage in gainful occupation. Compared to the size of the population eligible for medical re-examination (the recipients of $100 million in benefits in fiscal year 2025), the PPF's program for re-examining accident disability pensioners is virtually non-existent.

Enforcement of the safeguards provision is not just a matter of fiscal prudence; it is the legal responsibility of the PPF's Board of Trustees. As explained in Corporation Counsel Opinion 108,618, issued in 1978, "[i]t is the duty of the Board of Trustees to enforce the 'safeguards' provision."[46] The then-Corporation Counsel explained that this duty has two bases. First, "members of the board of trustees of a retirement system are public officers" and so are "charged with the duty to disburse and expend money for the purposes and in the manner prescribed by law."[47] Second, "the members of the Board of Trustees are fiduciaries," and so "[t]hey are obligated to exercise skill and diligence in the performance of their duties, to preserve and protect trust property, to collect debts owing to the trust[,] and to enforce claims on behalf of the trust."[48] In other words, the PPF *must* utilize the safeguards provision. The PPF's nearly complete failure to utilize the safeguards provision since 2019 was not within its discretion and must be corrected.

Moreover, the PPF's decision not to use its authority under the safeguards provision stands in stark contrast to comparable systems. All recipients of federal Social Security Disability Insurance benefits are subject to periodic re-examinations ranging from once every six months to once every seven years, depending on the condition.[49] Many state and local pension systems—including the system in Ohio for

[46] Corporation Counsel Opinion 108,618 at 4.

[47] *Id.*

[48] *Id.* at 5.

[49] 42 U.S.C. § 421(i); *Disability Benefits – Your Continuing Eligibility*, SOCIAL SECURITY ADMINISTRATION, *available at* https://www.ssa.gov/benefits/disability/work.html.

Highway Patrolmen,[50] the system in Massachusetts for public employees,[51] and the system in Montgomery County, Maryland for public employees[52]—follow the same practice of requiring all disability retirees to undergo periodic medical re-evaluations. As a report to the New York Comptroller in 1995 noted, "[m]ost systems allow for reexamination of disability retirees. If the member is found to no longer be disabled, some systems terminate the disability benefit while others only terminate it when and if a position is available."

Indeed, New York City employs more rigorous standards for medical re-examination than the PPF even when the stakes are much lower than the pension disability program. New Yorkers with "permanent disabilities seriously impairing [their] mobility"[53] are entitled to special parking permits under the New York City Charter.[54] To get a permit, an individual must submit an application including a certification from a physician that an individual has a qualifying condition with accompanying medical documentation.[55] But unlike the pension system, that medical determination is not necessarily one-and-done: "[A]n applicant may be required to submit, at some future time designated by [a] physician . . . at the time of certification, to a reevaluation/reassessment of his (her) medical condition in order to determine whether the applicant continues to have a" qualifying disability.[56] The New York City Department of Transportation informed DOI that, in practice, most parking permit recipients are required to undergo medical re-evaluation when they renew their permits. In May 2026, for example, 386 out of 395 new permittees were designated to require re-evaluation upon permit renewal. In other words, individuals with disabilities undergo more rigorous testing to maintain their parking privileges than they must to receive substantial City pensions.

To ensure appropriate use of the safeguards provision, DOI offers its second recommendation:

> *<u>Recommendation #2</u>: The PPF should adopt regulations to govern how and when members will be called in for medical re-examination.*

[50] Ohio Revised Code § 5505.18(D) (requiring annual re-examination).

[51] 840 Code of Massachusetts Regulations § 10.14 ("After a public employee retires for accidental or ordinary disability retirement, that member must participate in an evaluation once per year during the first two years after retirement and once every three years thereafter.").

[52] Montgomery County Code § 33-43(g) ("The Chief Administrative Officer must require a member receiving disability pension payments to undergo either a yearly physical examination or to submit a medical doctor's certificate verifying continuation of the disability during the 5 years after retirement, and once in every 3 years thereafter, until age 55 . . .").

[53] R.C.N.Y. § 16-02.

[54] Charter § 2903(a)(15)(a).

[55] R.C.N.Y. § 16-04(a).

[56] R.C.N.Y. § 16-04(b).

As noted above, the PPF's rules and regulations are currently silent on when and how the PPF should use the safeguard provision set forth in the Administrative Code. Adoption of regulations would help ensure that the safeguards provision is used to protect public funds in a manner that is predictable and consistent.

There are many ways to design a system of medical re-examination. As noted above, the Ohio pension system for highway patrolman requires annual re-examination up to a certain age.[57] The federal disability insurance system requires periodic re-examinations that differ in frequency depending on whether medical improvement is "expected," "possible," or "not expected."[58] Other systems, like Ohio's system for public employees, [59] Oregon's system for public employees,[60] and New York City's program for disability parking permits,[61] allow medical staff to determine the frequency and need for re-examinations. And a re-examination system could employ a random audit protocol to ensure that accident disability pensioners are aware of the possibility that they could be re-examined.

At minimum, the system for medical re-examination that the PPF adopts should: (1) ensure that retirees with conditions that are more likely to show improvement over time are subject to periodic re-examination; (2) incorporate a system for soliciting and evaluating information received from third parties about retirees, consistent with Recommendation #4 below; and (3) ensure that retirees are aware of the possibility that they could be re-examined pursuant to a random audit. Ultimately, DOI defers to the PPF on the detailed design of its system, as the PPF has a better understanding of its own organizational constraints and capacities.

B. Findings Related to Information Received by DOI.

In addition to assessing the PPF's policies and practices regarding use of the safeguards provision, DOI analyzed information about potential disability fraud by recipients of accident disability to determine whether that information could provide insight into how the safeguards provision could be better used.

In the last year, DOI received information regarding several former NYPD members receiving accident disability benefits who were engaged in activities that

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[57] Ohio Revised Code § 5505.18(D).

[58] *Disability Benefits – Your Continuing Eligibility*, SOCIAL SECURITY ADMINISTRATION, *available at* https://www.ssa.gov/benefits/disability/work.html.

[59] Ohio Revised Code § 145.362 ("The public employees retirement board shall require any disability benefit recipient to undergo a periodic medical examination, as determined by the board's medical consultant or as specified in rules adopted by the board.").

[60] Oregon Administrative Rule 459-076-0050 ("Members receiving a disability benefit are subject to periodic reviews of their disabled status until the member reaches normal retirement age *or staff determines that periodic reviews are no longer warranted.*") (emphasis added).

[61] 16 R.C.N.Y. § 16-04(b) ("[A]n applicant may be required to submit, at some future time designated by [a] physician . . . at the time of certification, to a reevaluation/reassessment of his (her) medical condition in order to determine whether the applicant continues to have a" qualifying disability).

appeared to be inconsistent with their entitlement to those benefits. A summary of some of that information and DOI's resultant investigations is set forth below[62]:

> **<u>Example 1</u>:** DOI received information suggesting that Officer A was receiving an accident disability pension, but that he was engaged in activities inconsistent with his alleged shoulder injury—lifting weights at a public gym, performing extensive renovations, and operating a business that involved manual labor. DOI received a video allegedly showing Officer A bench pressing heavy weights and photographs showing Officer A playing a contact sport. In addition, DOI conducted a social media review for Officer A and found additional evidence corroborating the complainant's allegations, including additional information about Officer A's business.
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> **<u>Example 2</u>:** In 2025, DOI received information suggesting that Officer B had been posting workout videos on the social media site Instagram. DOI had received similar information about Officer B in 2023, noting that Officer B was frequently seen at a local gym lifting weights and that he regularly played competitive sports.
>
> Records produced by the PPF revealed that, in 2021, the Medical Board determined that Officer B was disabled from performing the full duties of a New York City Police Officer, owing to ongoing limitations on the range of motion of his arm. Officer B was granted accident disability retirement in April 2022.
>
> DOI conducted a social media review for Officer B that revealed several videos inconsistent with the disability that served as the basis for Officer B's accident disability retirement, including videos in which Officer B performs complicated dance routines exhibiting a full range of arm motion and one in which Officer B does numerous pushups with little apparent effort.
>
> **<u>Example 3</u>:** DOI received information suggesting that Officer C was engaged in activity inconsistent with their receipt of accident disability, including attending workout classes and lifting large animals. DOI reviewed social media posts showing Officer C instructing workout classes described as high intensity while exhibiting a full range of motion.
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> **<u>Example 4</u>:** DOI received information suggesting that Officer D was receiving improper accident disability benefits from the PPF. It was reported to DOI that Officer D was running a business that required him to travel frequently and operate heavy equipment. DOI conducted

[62] While the subjects of the complaints have been anonymized in this report, DOI has provided the PPF with pertinent information about each subject under separate cover.

a social media review for Officer D and found mixed evidence regarding the complaint. On the one hand, several posts reflected that Officer D had been spending time at the gym and golfing. On the other, posts showed Officer D wearing a medical device consistent with his disability.

DOI's investigation and subsequent analyses of these four individuals have led to three recommendations, as detailed below.

First, the procedures in place at the PPF complicate DOI's ability to conduct pension fraud investigations. Often, DOI receives information about an individual years after an officer has been medically evaluated for accident disability. For example, in 2025, DOI received information suggesting that an accident disability pensioner had committed disability fraud. However, by the time DOI received this information, six years had elapsed since the pensioner was granted an accident disability pension and he was no longer eligible for medical re-examination under the safeguard provision, as he had passed his retirement age. During the six-year intervening period, PPF policies and procedures did not require the officer to make any statements about whether he remained disabled. The evidence available to DOI about this officer could just as easily suggest that he had recovered as it could suggest that he committed fraud in his initial application.

In order both to facilitate law enforcement's ability to conduct fraud investigations and to help the PPF ensure that accident disability recipients meet the conditions for their enhanced benefits, DOI recommends as follows:

Recommendation #3: The PPF should require accident disability retirees who have not yet reached their elected period of service to certify periodically that their disability persists.

Having a certification requirement would serve a two-fold purpose. If a retiree has recovered from their disability, it would provide the retiree with the opportunity to inform the PPF so that they can return to City service without the need for further PPF intervention. And if a recovered retiree instead falsely certifies that they remain disabled, the certification would refresh the evidentiary value of information about the retiree's current condition in an investigation into disability pension fraud. Notably, other pension systems require this type of certification from accident disability pensioners. For example, in New Jersey, "[m]embers who are granted an accidental disability retirement benefit [] receive certification of the award and [are] advised that they are responsible for notifying the [state] if the disabling condition improves enough to allow the member to return to gainful employment."[63]

The PPF already employs similar certification requirements to enforce other aspects of its eligibility rules. New York law prohibits City pensioners from receiving compensation of over $35,000 annually from positions in public service.[64] To enforce

[63] N.J. Admin. Code § 17:1-7:10.

[64] RSSL §§ 211-212; New York City Charter § 1117.

that rule, the PPF requires pensioners who accept public positions to certify annually their employment status, to attach a copy of a recent paystub and their W-2 from the preceding year, and to certify that they are not in violation of the earnings limitation. The PPF also requires all disability pensioners to certify their employment status and income annually to determine whether they exceed the income restrictions set by Administrative Code § 13-254.[65] A similar certification for disability retirees would provide a simple mechanism for the PPF to determine whether its disability pensioners' conditions have improved such that they could return to City service.

Second, the information DOI received about Officers A, B, C, and D highlight a need for the PPF to take a more proactive approach to protecting the integrity of its pension system. While DOI often investigates allegations of fraud against City agencies, including its pension funds,[66] the PPF can act on less by calling pensioners in for medical re-examination based on information it receives about their current condition, regardless of whether a pension was originally procured by fraud. But the PPF has no system to solicit information from the public about the health of its pensioners. Accordingly, DOI issues the following recommendation:

> *Recommendation #4: The PPF should create an intake process to solicit information from the public relevant to its medical re-examination authority.*

Adoption of such an intake system would help the PPF satisfy its legal duty to investigate allegations that disability retirement payments are being made to ineligible recipients. The Corporation Counsel has opined that the PPF has a duty to investigate even "a telephone tip" that alleged improper retirement payments.[67] In that opinion, the Corporation Counsel warned that "[i]dleness after a warning of danger is a negligent breach of trust."[68] Given the PPF's duty to investigate allegations of improper pension payments, the public should have a mechanism through which they can provide information to the PPF directly.

Third, although DOI has not pursued criminal investigations against Officers A, B, C, or D, the information that DOI learned about those officers provides enough

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[65] Police Penson Fund, *Financial Disclosure Questionnaire (FDQ)* at 2 (2026), *available at* https://www.nyc.gov/assets/nycppf/downloads/pdf/2025%20FDQ%20form.pdf (noting that the form "must be submitted annually by Tier 2 Ordinary Disability Retirees ('ODR'), as well as both Tier 2 and Tier 3 Accident Disability Retirees ('ADR') who would not be considered eligible for Service Retirement").

[66] *See, e.g.*, Rose Gill Hearn, *Report on Pension Fraud* (May 2012), *available at* https://www.nyc.gov/assets/doi/reports/pdf/2012/2012-05-09-Pr12pension.pdf; Alvin L., Bragg, Jr., *D.A. Bragg Announces Indictment in $188K Pension Theft* (May 26, 2026), *available at* https://manhattanda.org/d-a-bragg-announces-indictment-in-188k-pension-theft/.

[67] Corporation Counsel Opinion 108,618 at 6.

[68] *Id.*

information to raise the question of whether they could return to City service. Accordingly, DOI recommends as follows:

> *<u>Recommendation #5</u>: The Board of Trustees should vote on whether to require Officers A, B, C, and D to undergo medical examination pursuant to the safeguards provision.*

Re-examination of these officers will protect the integrity of the police pension system by allowing them to return to service if their medical conditions will allow it. And to the extent a re-examination provides evidence that an officer procured benefits by means that render them unfit for service, like by making false statements in their initial accident disability application, the PPF can instead take action to stop payment of improperly obtained benefits.[69]

III. Conclusion.

The PPF administers an accident disability system that distributes almost a billion dollars in benefits per year, including over $100 million to individuals who would not otherwise be eligible to retire. Given the scope of this program, it is essential that the PPF administers its programs in a manner that is transparent, legal, and predictable, both to protect the public fisc and to ensure the public's trust. To that end, DOI has offered the PPF five recommendations to improve its administration of its accident disability program:

> <u>Recommendation #1</u>: The PPF should adopt regulations, training, and guidance to require that accident disability applications will be evaluated based on an officer's actual job duties.

> <u>Recommendation #2</u>: The PPF should adopt regulations to govern how and when members will be called in for medical re-examination.

> <u>Recommendation #3</u>: The PPF should require accident disability retirees who have not yet reached their elected period of service to certify periodically that their disability persists.

> <u>Recommendation #4</u>: The PPF should create an intake process to solicit information from the public relevant to its medical re-examination authority.

> <u>Recommendation #5</u>: The Board of Trustees should vote on whether to require Officers A, B, C, and D to undergo medical examination pursuant to the safeguards provision.

The PPF has informed DOI that it has accepted Recommendations #4 and #5, but that it has rejected Recommendations #1, #2, and #3.

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[69] Ad. Code. § 13-265 (allowing the PPF to adjust the benefits of any beneficiary that resulted from fraud or mistake).