

TEAMSTERS HEALTH AND WELFARE FUND OF PHILADELPHIA & VICINITY

Board of Trustees Policy for the Payment of Employer Contributions and the Collection of Delinquent Contributions

The Board of Trustees (the “Trustees”) of the Teamsters Health and Welfare Fund of Philadelphia & Vicinity (the “Fund”) has a fiduciary obligation to collect all money that is due and owing to the Fund. In addition, the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) defines a “prohibited transaction” as any extension of credit from an employee benefit plan to a contributing employer. A failure to collect contributions (“Contributions”) when they are due may be treated as such an extension of credit from the plan to the contributing employer. The Department of Labor has issued guidance from the prohibited transaction rules permitting reasonable business decisions to be made by a multiemployer fund with respect to unpaid contributions.

This policy (“Policy”) sets forth rules and procedures for the payment of employer Contributions, the collection of delinquent (“Delinquent”) Contributions, and related matters. Any action taken under this Policy will be final and binding to the fullest extent permitted by law in accordance with Department of Labor guidance. Between meetings of the Board of Trustees, the Co-Chairs of the Board have authority to act on behalf of the Board with respect to this Policy.

Nothing in this Policy limits the Fund’s authority to take actions otherwise authorized by the Trust Agreement, the Fund, other policies, other procedures, or applicable law. The following two examples illustrate — but do not limit — the extent to which this Policy leaves intact authority derived from sources other than the Policy.

First, nothing herein limits the Trustee’s authority: (1) to reject Contributions tendered under a particular CBA (as defined herein), or (2) to suspend an employer that pays Contributions to the Fund. In exercising their discretion under this Policy, the Trustees will consider all the relevant facts and circumstances and implement this determination in a manner consistent with their fiduciary obligations. Second, certain provisions in this Policy state that the Fund should take specific actions if Contributions remain Delinquent after designated deadlines. This Policy does not prevent the Fund from taking such actions before or after these deadlines if the facts and circumstances of a particular case so warrant.

I. Payment of Contributions

A. For purposes of this Policy, the term “CBA” includes (i) any written agreement that authorizes an employer to pay Contributions to the Fund, and (ii) the policies and procedures that the Trustees may adopt in connection with the payment of such Contributions.

B. A contributing employer must pay Contributions owed the Fund by the due date (“Due Date”) established by the operative CBA.

C. Contributions not paid by the Due Date will be immediately deemed Delinquent.

II. Collection of Delinquent Contributions before Referred to Counsel

A. When Contributions become Delinquent, all increments (“Increments”) to the amount of money owed the Fund will begin to accrue immediately. These Increments include without limitation any liquidated damages established by the operative CBA, or, if no liquidated damages are established by the operative CBA, interest determined using the rate set forth in ERISA Section 502(g)(2).

B. As soon as practicable after Contributions become Delinquent, the Administrator shall in writing:

1. demand that the employer pay the Delinquent Contributions and Increments immediately, and
2. inform the employer that if the Delinquent Contributions and Increments are not paid promptly, the Fund will refer the case to counsel.

C. If the employer pays the Delinquent Contributions owed the Fund but does not pay all the Increments, then acceptance of the payment tendered by the employer will not waive the Fund’s right to the unpaid Increments, which will continue to accrue as appropriate.

D. If an employer has not paid the full amount demanded by the Administrator under Section II(B)(1) within two additional months after the Due Date, then the Administrator will refer the case to counsel.

III. Collection of Delinquent Contributions After Referral to Counsel

A. As soon as practicable after referral of a case to counsel, counsel shall in writing:

1. demand that the employer pay all Delinquent Contributions and Increments within 10 days, and
2. inform the employer that if this demand is not satisfied the Fund will pursue all appropriate remedies, including without limitation those authorized by ERISA Section 502(g)(2).

B. If the employer does not pay the amount demanded by counsel pursuant to Section III(A)(1) within 10 days, counsel shall contact the Administrator to discuss the appropriate course of action. The course of action selected will seek the best result available to the Fund under the facts and circumstances. These options include without limitation:

1. commencing litigation or pursuing an alternative legal procedure that seeks all appropriate remedies,
2. settling the claim, including agreeing to an installment payment schedule; or
3. abandoning the claim.

C. Any agreement to settle a case must be in writing and approved by the Trustees.

IV. STATUS OF A DELINQUENT EMPLOYER

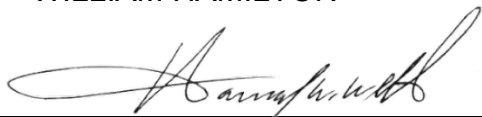
A. Suspension. An employer shall be suspended (that is, the Fund shall cease providing benefits to participants (and their covered dependents) who are employed at such employer) after that employer has ceased paying Contributions to the Fund for 60 days. In suspending an employer, the Fund will comply with all legal requirements to provide notice of this decision to participants and other parties.

B. Delay of Suspension. In appropriate circumstances, the Trustees will have discretion to delay the actions described in Section IV(A). In addition, the Fund Administrator is authorized (without needing Trustee action) to waive, for one month, implementation of this action once per term of a collective bargaining agreement.

Approved:

Union Trustees


WILLIAM HAMILTON



HOWARD WELLS


ROBERT BRYAN, JR.

Management Trustees


DANIEL SCHMIDT


WILLIAM EINHORN


DAVID EVANS

Date: FEBRUARY 8, 2024