



May 31, 2018

### **SUMMARY OF MATERIAL MODIFICATIONS**

*This notice contains important information regarding changes to the Plan ("Plan") of the American Federation of Musicians and Employers' Pension Fund ("Fund"). This Summary of Material Modifications ("SMM") is issued to notify you of these changes, and revises the Fund's Summary Plan Description ("SPD"), which was previously distributed to you. The SPD and a copy of this SMM are also available on the Fund's website at <https://www.afm-epf.org/>. Please keep this notice for your records.*

#### **Disability Pension Benefit Changes effective April 1, 2018**

The Trustees have made certain changes to the Fund's Disability Pension claims procedures, effective for all claims filed on or after April 1, 2018, to comply with new federal regulations applicable to employee benefit plans that provide a disability benefit. For ease of review, we have described the Fund's disability claim procedure below, which includes provisions that were already in effect as well as provisions that are new.

In general, Disability Pension claims are treated the same as any claim for a pension benefit. The Fund's claims and appeals rules are described on pages 47-49 of the SPD. There are some differences between a Disability Pension claim and a regular pension claim, explained below.

The Participant will be notified of the initial decision on a Disability Pension claim within a reasonable period of time, but no later than 45 days after the claim is filed, unless additional time is required due to matters beyond the control of the Fund, in which case the Fund will notify the Participant before the end of the initial 45 days of the need for an extension. In that case, the Participant shall receive written notification explaining the circumstances requiring the extension, the standards on which entitlement to a benefit is based, the unresolved issues that prevent decision on the claim and the additional information needed to resolve those issues, and the date by which the Fund expects to render a decision. The extension may be for up to 30 days and, if necessary, the Fund may take a second extension of up to 30 days, with the same notification to be provided prior to the expiration of the first 30-day extension. Any additional extensions will only be with the Participant's consent. If any extension of the time is due to the Participant's failure to submit information necessary to decide the claim, the Participant shall be given at least 45 days to provide any information requested, and the period for making the determination will be tolled (frozen) from the date on which the extension notice is sent to the date on which the claimant responds to the request for information.

If the Fund denies a Disability Pension and the denial is based on a medical judgment, the Fund will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment, and, in the case of an appeal, who was neither consulted in connection with the initial benefit determination nor is the subordinate of any person who was consulted in connection with that determination. The notice of the denial will include, among other things, the internal provisions of the Plan, if any, which were relied upon in denying the claim or, alternatively, a statement that such provisions of the Plan do not exist. They will also include a discussion of the decision, including an explanation of any disagreement or decision not to follow (1) the views presented by the Participant's health care and vocational professionals, (2) the views of medical or vocational experts whose advice was obtained on behalf of the Fund, whether or not the advice was relied upon in making the benefit determination, or (3) a Social Security Administration disability determination. The Fund's explanation will be presented in a culturally and linguistically appropriate manner. If the adverse benefit determination is based on a decision about medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request. The notice will also identify any medical or vocational expert whose advice was obtained on behalf of the Plan in connection with a denial, without regard to whether the advice was relied upon in making the benefit determination. The notice will also contain a statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits.

If a Disability Pension claim is denied, the deadline for the claimant to appeal the decision is 180 days after receipt of the written notice of the denial. As with all pension claims, if the denial is based on any internal rule or guideline, the notice of the denial either will explain the rule or will state that it was relied upon and will be provided free of charge to the Participant upon request. Further, in any appeal, the Administrative Committee, which considers appeals, will consider the appeal *de novo*, meaning without any deference to the initial benefit denial and the Committee will not include any person who participated in the initial benefit denial or who is the subordinate of a person who participated in the initial benefit denial. The notice of any denied appeal will contain, in addition to the items provided in a notice of denial, a description of any applicable contractual limitations period that applies to the claimant's right to file the claim in court, including the date on which the contractual limitations period expires for the claim.

Before the Plan issues a notice of the denial of an appeal, the Plan will provide the Participant, free of charge, with any new or additional evidence considered, relied upon, or generated by the Administrative Committee in connection with the appeal or any new or additional rationale relied upon by the Administrative Committee. The information must be provided as soon as possible and sufficiently in advance of the date on which the notice of the denial is required to be provided to give the Participant a reasonable opportunity to respond prior to that date.

#### Disability Pension Benefit Changes effective June 1, 2018

The Trustees have made certain changes to the Fund's Disability Pension Benefit requirements. However, these benefit changes will not apply to a disability pension benefit with a pension effective date no later than September 1, 2018, if Part 1 of the application for a disability pension

benefit is postmarked (or received in the Fund Office, in the case of an application delivered by fax, email or by hand) on or before June 1, 2018.

Prior to these changes, as set forth on page 24 of the SPD, Participants have been eligible for a Disability Pension if they:

- (1) file a complete application with the Fund Office;
- (2) stop working in Covered Employment because of a condition of Total Disability;
- (3) have at least 10 years of Vesting Service;
- (4) have not started to receive a Regular Pension Benefit; and
- (5) are determined to have a Total Disability by the Administrative Committee of the Board of Trustees.

All of those requirements still apply, but the Trustees have added the following additional requirements that a Participant must meet to be eligible for a Disability Pension Benefit. To be eligible for a Disability Pension Benefit, a Participant must also:

- (1) not be eligible, on his or her Pension Effective Date (described on pages 42-43 and 64 of the SPD), for a Regular Pension Benefit (described starting on page 12 of the SPD); and
- (2) have earned at least 1 Year of Vesting Service (described starting on page 7 of the SPD and on page 66) in the three calendar year period immediately preceding the Pension Effective Date.

In other words, in addition to the requirements already applicable to a Disability Pension, the Trustees have added two further requirements. First, if you are eligible to receive a Regular Pension Benefit (described on page 14 of the SPD), you are not eligible for a Disability Pension Benefit. Second, you must have earned at least 1 Year of Vesting Service in the three calendar years before you start your pension.

For your reference, “Total Disability” is the Participant’s total and permanent inability to work in Covered Employment as a result of a medically diagnosed physical or mental disease or injury or the Participant’s terminal illness, as determined by the Administrative Committee in its sole discretion.

#### Changes for Legal Actions Effective February 16, 2018

In order to reduce the Fund’s expenses, the Trustees have also amended the Plan to provide that any legal action seeking any remedy against the Plan, the Fund, the Trustees, or any employee or representative of the Plan or Fund must be brought in the United States District Court for the Southern District of New York in Manhattan or the appropriate New York State Court in Manhattan, if applicable.

As always, if you have any questions concerning these changes or the Fund, please contact the Fund in writing using ‘Contact Us’ available on the Fund’s website at [www.afm-epf.org](http://www.afm-epf.org) or at 212-284-1200 Option 2 for the Pension Department.

Sincerely,

The Board of Trustees

*This SMM does not restate all of the terms and provisions of the Plan or SPD and does not affect any benefit other than the ones discussed above. All other terms of the Plan remain in effect, and if any provision is inconsistent, the terms of the Plan govern. The Board of Trustees reserves the right, in its sole and absolute discretion, to interpret and decide all matters under the Plan. The Board also reserves the right in its sole and absolute discretion, and subject to applicable law, to amend, modify, or terminate the Plan or any benefits provided under the Plan (or eligibility for such benefits), in whole or in part, at any time and for any reason.*

ERISA Information

Plan Sponsor: Board of Trustees of the American Federation of Musicians and Employers'  
Pension Fund

Sponsor's EIN Number: 51-6120204

Plan Number: 001

Plan Year: April 1 to March 31

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