

**VILLAGE OF GILBERTS**

**KANE COUNTY**

**STATE OF ILLINOIS**

**ORDINANCE NUMBER 01-2018**

**An Ordinance amending the Village Code to establish an Administrative procedure  
to determine eligibility for benefits under the Illinois Public Safety Employee  
Benefits Act**

**ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE  
VILLAGE OF GILBERTS  
KANE COUNTY  
STATE OF ILLINOIS**

**January 2, 2018**

**Published in pamphlet form by authority of the President and Board of Trustees of  
the Village of Gilberts, Kane County, Illinois this 2nd day of January 2, 2018.**

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**VILLAGE OF GILBERTS**

**AN ORDINANCE AMENDING THE VILLAGE CODE TO ESTABLISH AN ADMINISTRATIVE PROCEDURE TO DETERMINE ELIGIBILITY FOR BENEFITS UNDER THE ILLINOIS PUBLIC SAFETY EMPLOYEE BENEFITS ACT**

**WHEREAS**, the Village of Gilberts is an Illinois municipal corporation operating in accordance with the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

**WHEREAS**, the Village, pursuant to its municipal powers under the Illinois Municipal Code, including 65 ILCS 5/1-2-1 and 65 ILCS 5/10-4-1 relating to its General Corporate Powers and General Corporate Powers Respecting Employment, has authority to adopt ordinances and to promulgate rules and regulations consistent with state law on matters of group health insurance and other related benefits in relation to all municipal officers and employees in respect to each other, the municipality, and the people; and

**WHEREAS**, the Village President and Trustees of the Village of Gilberts have determined that the following policy is in the best interests of the Village and its citizens and therefore desire to amend the Village of Code of the Village of Gilberts.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS**, as follows:

**SECTION 1. RECITALS.** The recitals listed above are incorporated into this Ordinance as if fully set forth in this Section 1.

**SECTION 2. AMENDMENT.** Title 1, entitled "Administration," of the Village Code of the Village of Gilberts is hereby amended by adding the following new Chapter 9:

**"Chapter 9**

**ADMINISTRATIVE PROCEDURE TO DETERMINE ELIGIBILITY FOR BENEFITS UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT**

- 1-9-1: PURPOSE**
- 1-9-2: ADMINISTRATIVE COMPOSITION**
- 1-9-3: PROCEDURE**
  
- 1-9-1: PURPOSE:**

The purpose of this Chapter is to provide a fair and efficient method of determining the eligibility of applicants for the benefits enumerated under the Public Safety Employee Benefits Act (820 ILCS 320/1 *et seq.*) (PSEBA). All benefits provided to applicants pursuant to PSEBA will be consistent with PSEBA.

**1-9-2: ADMINISTRATIVE COMPOSITION:**

- A. Appointment of a PSEBA Claims Administrator: The Village President, with the consent of the Board of Trustees, is hereby authorized to appoint a person to hold the position of PSEBA Claims Administrator for the purpose of scheduling and making all necessary arrangements for the holding of hearings under this Administrative Procedure. These duties include, but are not limited to:
1. Receiving and filing applications for PSEBA benefits;
  2. Receiving and filing all documents required by this Ordinance to accompany such claims;
  3. Reviewing applications for completeness and returning incomplete applications to the applicant;
  4. Upon receipt of a complete application, scheduling hearings in accordance with the availability of the applicant, his or her counsel, counsel for the Village, and the Hearing Officer; and posting and publishing a Notice of Hearing in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1;
  5. At the direction of the Hearing Officer, posting and publishing required amended notices of hearing in the event that any hearing date should be continued to a later date;
  6. Arranging for a court reporter to prepare a transcription of the hearing;
  7. Receiving and filing the determination of the Hearing Officer and any order, ruling, or intermediate or supplemental determination of the Hearing Officer;
  8. Responding to requests for information or subpoenas relating to an application for PSEBA benefits or a hearing thereon; and
  9. Preparation of the record of any application and hearing thereon for the purposes of judicial review.

In the absence of an express appointment under this subsection A, the PSEBA Claims Administrator will be the Village Clerk.

- B. Appointment of a Hearing Officer: The Village President, with the consent of the Village Board of Trustees, is hereby authorized to appoint a person to hold the position of Hearing Officer for the purpose of holding hearings and making determinations concerning the eligibility for persons claiming benefits under PSEBA. In making such selection, the Village President shall consider:
1. The candidate's ability to perform the duties set forth herein;
  2. The background and experience of the candidate;
  3. The qualifications of the candidate, including but not limited to, the requirement that the candidate must be an attorney licensed to practice law in the State of Illinois, preferably for at least five (5) years, with a knowledge of and experience in labor and employment law, general civil procedure, and administrative practice.

- C. Power of the Hearing Officer: The Hearing Officer will have all of the powers granted to him or her under applicable state statutes and the common law relative to the conduct of administrative hearings, including the power to:
1. Preside over all Village of Gilberts hearings involving PSEBA;
  2. Administer oaths;
  3. Hear testimony, and accept evidence that is relevant to the issue of eligibility for benefits under PSEBA upon an application for such benefits;
  4. Issue subpoenas and orders to secure attendance of witnesses and the production of relevant papers and documents upon the request of one or more of the parties to a hearing or their representatives;
  5. Rule upon objections concerning the admissibility of evidence;
  6. Preserve and authenticate the record of any hearing and all exhibits that are introduced into evidence at the hearing;
  7. Issue a determination based on the evidence presented at the hearing;
  8. If the determination is that the applicant is eligible for PSEBA benefits, issue a finding as to the extent of the reduction, if any, of PSEBA benefits resulting from the existence of health insurance benefits payable from any other source.

**1-9-3: PROCEDURE**

- A. Application for PSEBA Benefits: A PSEBA benefit application form prepared by the Village will be the standard form required for PSEBA benefit applicants to use in requesting benefits under PSEBA. The form must be completed and executed by the requesting applicant and delivered to the PSEBA Claims Administrator. Information required by the form must include:
1. The full particulars of the employee's claim for benefits, including the date, time, place, and nature of the injury giving rise to the claim for benefits,
  2. The names of any witnesses to the injury and the circumstances under which it occurred, together with any other factual circumstances surrounding the incident(s) alleged to have occasioned the injury;
  3. The names, ages, and relationship to the applicant of legal dependents for whom PSEBA benefits may be claimed; and
  4. Information relating to the existence of health insurance benefits payable from any other source, which information must be current as of the date of application.

The application also must be accompanied by:

1. The written decision of any public safety pension board determining or declaring the injury to have been incurred in the applicant's line of duty as a public safety employee of the Village of Gilberts;
2. A signed medical authorization release authorizing the collection and

production by voluntary agreement or subpoena, of information, including protected medical information, relating to the injury and the incident giving rise to the injury; and

3. If the applicant is seeking reimbursement for health insurance premium payments or out-of-pocket payments for PSEBA-related health insurance coverage or medical expenses, copies of all payment records or receipts for payments made by the applicant.

B. **Application Review:** The PSEBA Claims Administrator will review the application for completeness. If incomplete, the PSBA Claims Administrator will return the application to the applicant for completion in accordance with the requirements of Section 1-9-3(A). If complete, the PSBA Claims Administrator will then forward the completed application to the Hearing Officer and, after determining the availability of the parties, give notice concerning the holding of a hearing on the application. No hearing on the application will be held until the application is complete.

C. **Administrative Hearing:** The conduct of the administrative hearing will be as follows:

1. Upon receipt of a completed application, the Hearing Officer will arrange for the posting and serving of a Notice of Hearing in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1, *et seq.*, notifying the parties and the public of the date, time, and place of a hearing to be held on the application.
2. The parties to the hearing, who may be represented by counsel or other representative, are the applicant and the Village of Gilberts. Both the applicant and the Village of Gilberts are necessary parties to the hearing.
3. Upon motion by a party, or determination upon consultation with the parties by the Hearing Officer, the initial hearing date or any subsequent date for the hearing may be reset by the Hearing Officer to mutually convenient dates and times.
4. Hearings will be held on the date and time and at the place specified in the Notice of Hearing, as originally set or reset and posted in accordance with law;
5. All hearings will be attended by a certified court reporter whose presence at the hearing has been arranged by the PSEBA Claims Administrator at the direction of the Hearing Officer, and a transcript of all proceedings will be made and preserved.

6. The applicant and the Village may examine and cross-examine witnesses, introduce exhibits, and request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.
7. It will be the applicant's obligation at the hearing to present in evidence any and all documents, including medical records, which were presented to any public safety pension board that considered the applicant's claim for a duty-related pension. All other medical records, health insurance records (including records relating to health insurance or self-insurance coverage of the applicant as a dependent), employment records, military records, accident reports, witness statements, injury reports (including any or all injury reports prepared or submitted by the applicant, whether or not in conjunction with the injury giving rise to the claim for PSEBA benefits), police reports, workers' compensation claims, reports and records, and records establishing dependency status (including marriage and birth certificates) that are relevant to the applicant's claim for PSEBA benefits shall be admissible at the hearing and shall be obtainable by any party requesting such records in pre-hearing discovery, subject to the requirements of applicable law.
8. The strict rules of evidence shall not apply to the hearing. The Hearing Officer may consider such evidence that a prudent person would reasonably rely upon in the course of managing his or her own affairs.
9. Upon conclusion of the hearing, the parties may make closing arguments on the record or, if either necessary party so requests, may submit post-hearing briefs in support of their positions, which briefs may contain appropriate citations to legal authority.
10. The determination by the Hearing Officer as to whether the applicant is eligible for benefits under PSEBA shall be in writing, shall include findings of fact and conclusions of law, and shall be consistent with PSEBA. If the Hearing Officer determines that the applicant is eligible for benefits under PSEBA, the determination shall include a finding as to the extent of the reduction, if any, of PSEBA benefits resulting from the existence of health insurance benefits payable from any other source.
11. Such determination shall constitute a final determination for the purpose of appeal to a court of competent jurisdiction."

**SECTION 3. SEVERABILITY.** In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this Ordinance is found to be invalid in any one or more of its several applications, all valid applications shall remain in effect.

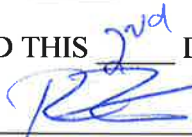
**SECTION 4. REPEAL AND SAVINGS CLAUSE.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however that nothing in this Ordinance shall affect any rights, actions, or causes of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall only be effective upon the passage, approval, and publication in the manner required by law.

**PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this 2 day of January 2018.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elissa Kojzarek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Lou Hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Guy Zambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Rick Zirk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 2<sup>nd</sup> DAY OF Jan., 2018

  
 Village President, Rick Zirk

  
 Village Clerk, Debra Meadows

Published: January 3, 2018

