

## Operating Engineers Local 825 Fund Service Facilities

65 Springfield Avenue, Second Floor  
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(973) 671-6800

Pre-Cert and PPO  
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July 16, 2018

### Summary of Material Modification to the International Union of Operating Engineers Local 825 Pension Plan

**TO: All Participants**

**FROM: The Board of Trustees of the International Union of Operating Engineers  
Local 825 Pension Plan**

**RE: Plan Changes to Disability Claims and Appeals Procedures**

This Summary of Material Modification ("SMM") describes changes to the claims and appeals procedures for the International Union of Operating Engineers Local 825 Pension Plan ("Plan") which apply to disability claims in order to address procedural safeguards and additional disclosures issued by the Department of Labor. Please keep this SMM with your copy of the Plan's Summary Plan Description ("SPD") for future reference.

### EFFECTIVE April 1, 2018

Section X, 3 of the SPD is amended to add the **bold, underlined and italicized** text as follows:

Special Rules for **Total Disability and** Partial Disability Pension: Notwithstanding the foregoing, special rules apply to adverse benefit determinations for claims for a **Total Disability and** Partial Disability Pension.

- **Initial Benefit Determination:** The Plan Administrator shall notify the claimant of the Plan's determination within forty-five (45) days after receipt of the application. In addition to the information required by paragraph 1 of this section, the notice of an adverse benefit determination as to eligibility for a **Total Disability or** Partial

Disability Pension shall include any internal rule, guideline, protocol, or other similar criterion that was relied upon in making the determination, or a statement that such a rule, guideline, protocol or other similar criterion was relied upon in making the adverse benefit determination and that a copy thereof will be provided free of charge to the claimant upon request. **Additionally, the notice of adverse benefit determination as to eligibility for a Total Disability or Partial Disability Pension shall include a discussion of the decision, including an explanation of the basis for disagreeing with or not following: (1) The views presented by the claimant or health care professionals treating the claimant and vocational professionals who evaluated the claimant; (2) the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a claimant's adverse benefit determination without regard to whether the advice was relied upon in making the benefit determination; and (3) a disability determination regarding the claimant made by the Social Security Administration. The notification shall be provided in a culturally and linguistically appropriate manner, as defined in 29 C.F.R. 2560.503-1(o).**

- *Extension of Review Period:* The initial forty-five (45) day review period may be extended by the Plan for up to 30 days, provided that the Plan Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the claimant, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If, prior to the end of the first 30-day extension period, the administrator determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within the extension period, the period for making the determination may be extended for up to an additional 30 days, provided that the Plan Administrator notifies the claimant, prior to the expiration of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the plan expects to render a decision. In the case of any extension under this paragraph, the notice of extension shall specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and the claimant shall be afforded at least 45 days within which to provide the specified information.
- **Filing an Appeal.** In the case of a claim as to eligibility for a **Total Disability or Partial Disability Pension**, the claimant has 180 days following receipt of the notification of an adverse benefit determination within which to appeal the determination. Such a claimant shall be afforded all of the rights described in

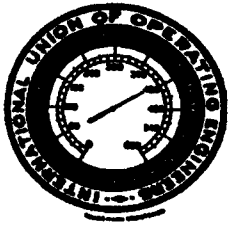
paragraph 2 of this section to the extent such rights are consistent with this paragraph. In addition, however, the review of an adverse benefit determination on a claim as to eligibility for a **Total Disability or** Partial Disability Pension shall not afford any deference to the initial adverse benefit determination. Moreover, the claimant shall be advised of the identity of any medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination.

- Failure to timely file an appeal within the applicable period shall constitute a waiver of the claimant's right to reconsideration of the decision on the basis of the information and evidence previously submitted to the Plan Administrator.
- **Appeal Determination.** The Trustees shall make an appeal determination no later than the date of the regularly scheduled meeting of the Trustees that immediately follows the receipt of a request for review, unless the request for review is filed within 30 days preceding the date of such meeting. In such case, the benefit determination may be made by no later than the date of the second meeting following receipt of the request for review. **Before the Plan can issue an adverse benefit determination on review of a disability benefit claim, the Plan Administrator shall provide the claimant, free of charge, with any new or additional evidence or new or additional rationale considered, relied upon, or generated by the Plan in connection with the claim; such evidence or rationale will be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination is sent, to give the claimant a reasonable opportunity to respond prior to that date.** The Plan Administrator shall notify the claimant of the benefit determination as soon as possible, but not later than 5 days after the benefit determination is made. In the case of an adverse benefit determination on appeal, in addition to the information required in paragraph 2 of this section, the notice of such determination will include any internal rule, guideline, protocol, or other similar criterion that was relied upon in making the determination, or a statement that such a rule, guideline, protocol or other similar criterion was relied upon in making the adverse benefit determination and that a copy thereof will be provided free of charge to the claimant upon request. The notice will also contain the following statement: "You and your Plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency." **Additionally, the notice shall include a statement of the claimant's right to bring an action under Section 502(a) of the Act, including the 180-day contractual limitations period that applies to the claimant's right to bring such an action and the calendar date on which the 180-day period expires for the claim. The**

**notification shall be provided in a culturally and linguistically appropriate manner, as defined in 29 C.F.R. 2560.503-1(o).**

- Please note that you must file an appeal with the plan and exhaust its claim and appeal procedures prior to filing an action in court with respect to a claim for benefits.

If you have any questions regarding this change to the Plan's rules, please contact the Fund Office at 65 Springfield Avenue, Second Floor, Springfield, NJ 07081, (973) 671-6800.



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ADMINISTRATOR



### UNION TRUSTEES

GREGORY LALEVEE, CHAIRMAN  
JOSEPH A. GRACE, JR.  
JAMES MCGOWAN  
JOHN WOOD

April 20, 2020

To All Participants of the Pension Fund:

This letter is to inform you of important changes implemented by the Board of Trustees of the Pension Fund ("Fund") in conjunction with the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act").

In addition to the brief summary below of the Plan changes, enclosed is a copy of the recent Summary of Material Modifications.

### Change to Required Beginning Date

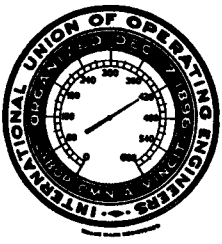
Until recently, your Required Beginning Date was April 1 of the calendar year following the year in which you attained age 70 ½, or stopped performing covered work, whichever was later. The SECURE Act of 2019 moved the Required Beginning Date back to April 1 of the calendar year following the year in which you attained age 72, or stopped performing covered work, whichever was later. This change applies to any participant who would have had a Required Beginning Date in 2021 by reason of attaining age 70 ½ on or after January 1, 2020. If you attain age 70 ½ in 2020 or later, your Required Beginning Date will not occur until April 1 following the year you attain age 72, or stop performing covered work, whichever is later. However, if you turned 70 ½ in 2019, **the change does not apply to you** and your Required Beginning Date is still April 1, 2020, or the date you stop performing covered work, whichever is later.

If you have any questions regarding the above, please feel free to contact the Fund Office staff at 973-671-6800.

Sincerely,

*Christine Medich*

Christine Medich  
Administrator



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### Summary of Material Modification No. 2 to the International Union of Operating Engineers Local 825 Pension Plan

This Summary of Material Modification ("SMM") describes changes to the International Union of Operating Engineers Local 825 Pension Plan ("Plan"). Please keep this SMM with your copy of the Plan's Summary Plan Description ("SPD") for future reference.

#### EFFECTIVE January 1, 2020

Section VII, page 22 of the SPD is amended to add the **bold, underlined and italicized** text as follows:

Effective January 1, 1997, if you reach age 70 ½ (and you are not a five percent owner), you must begin to receive a monthly pension benefit no later than the April 1 of the calendar year following the calendar year in which you turned 70 ½, or in which you retire, whichever is later. **Effective January 1, 2020, you will not be required to begin receiving a monthly pension benefit until April 1 of the calendar year following the calendar year in which you turned 72, or in which you retire, whichever is later.** See Section 6.4 of the Plan for more information.

If you have any questions regarding this change to the Plan's rules, please contact the Fund Office at 65 Springfield Avenue, Second Floor, Springfield, NJ 07081, (973) 671-6800.



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CHRISTINE MEDICH  
*ADMINISTRATOR*



## UNION TRUSTEES

GREGORY LALEVEE, *CHAIRMAN*  
JOSEPH A. GRACE, JR.  
JAMES McGOWAN  
JOHN WOOD

October 20, 2020

To All Participants of the Pension Fund:

This letter is sent to inform you of an important change implemented by the Board of Trustees of the Pension Fund ("Fund") in order to ease the burden on participants and their beneficiaries during these difficult times.

In addition to the brief summary below of the Plan changes, enclosed you will find a copy of the related Summary of Material Modification.

## **Break in Service**

A participant who fails to accrue 500 Hours of Service in a calendar year incurs a Break in Service for benefit vesting purposes for that year, subject to certain exceptions. A participant who incurs five consecutive Breaks in Service incurs a Permanent Break in Service and forfeits non-vested benefits. The Trustees have implemented an exception to the Break in Service rules for the calendar years 2020 through 2022, which credits participants for missed hours due to the COVID-19 pandemic. The credited Hours of Service apply only for purposes of determining whether a Break in Service has occurred and are not counted towards a participant's accrued benefit. Please note that if you have already accrued sufficient Vesting Service to be considered a Vested Participant, you currently have a non-forfeitable right to a benefit and, as such, this exception to the Break in Service rules has no impact on your benefit.

## **Eligibility**

The exception to the Break in Service rules identified above is available to all participants who submit a request in writing and who certify to the Fund that they fall into one of the following categories during the calendar years of 2020 through 2022:

1. Were unable to work as a result of being diagnosed with the virus COVID-19 or SARS-CoV-2 by a test approved by the Centers for Disease Control and Prevention;
2. Were unable to work as a result of their spouse or dependent being diagnosed with the virus COVID-19 or SARS-CoV-2 by a test approved by the Centers for Disease Control and Prevention;
3. Were furloughed or laid off or had their work hours reduced due to COVID-19;
4. Were unable to work due to lack of child care caused by COVID-19;
5. Were quarantined during the COVID-19 pandemic due to a compromised immune system or due to an immunocompromised member of their household;
6. Had a job offer rescinded or start date of a job delayed due to COVID-19;
7. Are the owner or operator of a business which is closed or reduced hours due to COVID-19.

A copy of the required request and certification form is enclosed. If you satisfy one of the eligibility categories above but do not submit this form, you will not be eligible to have Hours of Service missed due to an absence in employment counted towards preventing a Break in Service. This form must be received by the Fund Office no later than April 30, 2023.

If you have any questions regarding this change to the Plan's rules, please contact the Fund Office at (973) 671-6800.

Sincerely,

*Christine Medich*

Christine Medich  
Administrator



## Request for Relief from Break in Service Provisions

### Participant Information

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

SSN: \_\_\_\_\_ D/O/B: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

### Request for Relief from Break in Service Provisions

Please mark one of the below as applicable:

- ☐ I failed to accrue 500 hours of service for the calendar year 2020
- ☐ I failed to accrue 500 hours of service for the calendar year 2021
- ☐ I failed to accrue 500 hours of service for the calendar year 2022

By this document, I am requesting relief from the Break in Service provisions and to be credited for the Hours of Service I was unable to work due to the COVID-19 pandemic during the calendar year marked above. I understand that the credited hours will apply solely for determining whether a Break in Service has occurred.

### Certification of Eligibility for Break in Service Credit

Please mark one of the below as applicable:

I hereby certify that I am eligible for break in service credit as requested above because:

- ☐ I have been diagnosed with the virus SARS-CoV-2 or COVID-19 from a CDC approved test.
- ☐ I have a spouse or dependent who has been diagnosed with the virus SARS-CoV-2 or COVID-19 from a CDC approved test.
- ☐ I was furloughed or laid off or had my work hours reduced due to COVID-19.

- ☐ I had a job offer rescinded or start date for a job delayed due to COVID-19.
- ☐ I was unable to work due to lack of child care caused by COVID-19.
- ☐ I was required to quarantine during the COVID-19 pandemic due to a compromised immune system or due to an immunocompromised member of my household.
- ☐ I am the owner or operator of a business which closed or reduced hours as a result of COVID-19.

I intend and understand that the Plan Administrator will rely on the foregoing certification. I understand that if any of the foregoing information is false the Break in Service relief may be reversed, and I may be subject to forfeiture of unvested benefits.

**Participant Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Summary of Material Modification No. 3  
to the  
International Union of Operating Engineers Local 825 Pension Plan**

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This Summary of Material Modification (“SMM”) describes changes to the International Union of Operating Engineers Local 825 Pension Plan (“Plan”). Please keep this SMM with your copy of the Plan’s Summary Plan Description (“SPD”) for future reference.

**EFFECTIVE January 1, 2020**

Section V, page 11 of the SPD is amended to add the **bold, underlined and italicized** text as follows:

Prior employment with an employer who subsequently signs a collective bargaining agreement with the Union may be counted for vesting purposes. See Section 4.4 of the Plan. Similarly, certain non-covered employment may be counted for vesting purposes. See Section 4.5 of the Plan. **For the calendar years of 2020 through 2022, a Participant who is absent from work due to the COVID-19 pandemic may receive credit for Hours of Service that count for vesting purposes. See Section 1.18 of the Plan.**

If you have any questions regarding this change to the Plan’s rules, please contact the Fund Office at 65 Springfield Avenue, Second Floor, Springfield, NJ 07081, (973) 671-6800.

