

**WESTERN STATES OFFICE AND PROFESSIONAL
EMPLOYEES PENSION FUND**

DEEMED WITHDRAWAL POLICY

Effective December 5, 2022

1. Statement of Purpose and Authority.

The Board of Trustees (“Trustees”) of the Western States Office and Professional Employees Pension Fund (“Fund”) adopt this Deemed Withdrawal Policy (“Policy”) to establish uniform rules and procedures for (a) identifying employers who may have withdrawn from the Plan; and (b) assessing and collecting related Withdrawal Liability.

2. Statement of Authority.

This Policy is adopted pursuant to the Trustees’ express and implied authority to identify and collect employer contributions and/or plan assets pursuant to (a) the Employee Retirement Income Security Act of 1974, as amended; (b) common law; (c) applicable employer participation agreements; and (d) the Trust Agreement (“Trust”) for the Western States Office and Professional Employees Pension Fund.

3. Administration and Collection Agent.

3.1 Administration. The Trustees direct the Fund’s third party administrator to administer this Policy on behalf of the Trustees and to serve as the Collection Agent under this Policy. The Collection Agent is responsible for (a) determining when employer reports and/or contributions is/are not filed; (b) notifying employers or missing reports; and (c) initiating withdrawal liability procedures.

3.2 Administrator and Collection Agent. The current Collection Agent is:

BeneSys, Inc.
5331 S Macadam Ave., Ste 258
Portland, OR 97239
Telephone: 503-224-0048
Fax: 503-228-0149

4. Policy Statements.

4.1 Participating Employers (“Employers”) are required to submit monthly reports showing hours worked and pension contributions for covered employees.¹ An Employer who has no covered employees, or covered employees with no-hours, is still required to file a monthly report.

¹ A “covered employee” is an employee covered by a collective bargaining agreement with an OPEIU local that provides for the covered employee to participate in the Fund.

- 4.2 An Employer that fails to timely file reports, or files no reports, is subject to the Fund's Delinquent Reporting and Late Contribution Policy.
- 4.3 The Trustees have determined that some Employers that fail to timely file reports have withdrawn from the Fund, while others have open contract positions they intend to fill. The Trustees adopt this Policy to restate the Fund's current administrative procedures regarding Employers who are deemed to have withdrawn from the Fund.

5. Policy Provisions.

- 5.1 Collection Agent shall track monthly reports filed by all Employers.
- 5.2 Collection Agent shall send a certified letter ("Notice") to Employers who fail to file an hours report and/or file a no-hours report for at least three consecutive months.
- 5.3 The Notice shall request an explanation from the Employer and provide a 14 day response period. The Notice shall state that if the Employer does not timely respond the Employer will be deemed to have withdrawn from the Fund.
- 5.4 Employer Does Not Respond. If the Employer does not respond to the Notice within the 14 day period, or if the explanation is not satisfactory to the Collection Agent, the Collection Agent shall:
 - a. determine if there is withdrawal liability by consulting with the Fund's actuary; and
 - b. if there is withdrawal liability, assess the Employer as provided in the Fund's Withdrawal Liability Policy.
- 5.5 Employer Has Open Contract Position. If the Employer responds to the Notice that the Employer does not currently have a covered employee, but intends to hire a covered employee in the immediate future, the Employer will be treated as having an open contract position.
- 5.6 The Collection Agent shall not immediately assess withdrawal liability if the Employer has an open contract position. However, the time period in which the Fund will allow the Employer to have an open contract position is not unlimited. Unless the Employer fills the open position, the Collection Agent shall assess withdrawal liability the earlier of:
 - a. the date the Employer stops filing required monthly reports after the Collection Agent determines there is an open contract position;
 - b. the date the Employer stops responding to the Collection Agent's request to confirm the position remains open;
 - c. termination of the collective bargaining agreement ("CBA") in effect as of

the date the Employer stopped filing reports; or

- d. one year after the date on which the Employer stopped filing reports.

Example: Employer has a CBA with an OPEIU local that expires March 31, 2024. Employer terminates Employer's last covered employee in February, 2022. Employer either stops filing reports, or files no-hours reports, starting March 1, 2022. In response to the Notice, Employer states that Employer plans to hire a covered employee as soon as the economy improves and begins filing monthly reports. Employer has an open contract position and is not deemed to have withdrawn on March 1, 2022. However, Employer fails to fill the contract position by March 31, 2023. Employer is deemed to have withdrawn from the Fund as of April 1, 2023.²

6. **Plan Expenses.** An Employer that is deemed withdrawn under this Policy shall be responsible for the Fund's expenses (administration; actuarial; legal, etc.) if the Employer subsequently abates the Employer's withdrawal liability.
7. **Partial Withdrawal Rule.** Nothing in this Policy affects the Fund's right to determine that an Employer has a partial withdrawal under the Withdrawal Liability Policy.
8. **Trustees' Authority.** The Trustees may, interpret, modify, amend, suspend or terminate this Policy at any time.
9. **Adoption.** This amended Policy was adopted at a Board of Trustees meeting held on December 5, 2022, and is effective as of that date.

WESTERN STATES OFFICE AND PROFESSIONAL EMPLOYEES PENSION FUND

Suzanne Mode

Suzanne Mode, Co-Chair

Date signed: 7/14/2023 | 7:15 PM EDT

Pati Piro-Bosley

Pati Piro-Bosley, Co-Chair

Date signed: 7/13/2023 | 5:07 PM EDT

² April 1, 2023, is the earlier of the date the Employer's CBA expires or one year from the date the Employer either stopped filing reports or started filing no-hours reports.