

## CBA Letterhead

Peter Adomeit  
Chairman

Office of the State Comptroller  
State Employee Retirement Commission

The Disability Law Section (“DLS”) is a group of attorneys in the Connecticut Bar Association (“CBA”). The DLS examines the law as it pertains to the physically and mentally impaired, promotes change where indicated (through the CBA and section action), and assures the safeguarding of the rights of the disabled. It is the further purpose of this section to support the mission of the association by promoting best practices in legal research and advocacy as they apply to the preceding purposes.

It is our understanding that after a member of the State Employee Retirement System (“SERS”) is granted State disability retirement, both the Retirement Services Division (“RSD”) and Public Consulting Group, Inc. (“PCG”) sends the member a letter regarding SEBAC 2017’s requirement that the member must file for Social Security Disability.

The State Employee Bargaining Agent Coalition (“SEBAC”) 2017 agreement states:

Effective as soon as administratively feasible, current disability retirees shall be required to apply for Social Security Disability. Future disability retirees shall be required to apply within two years of their receipt of State Disability retirement. No retiree shall be required to sustain any cost in order to apply, nor shall any retiree be penalized if such application is not granted. A retiree may be requested to appeal a denial of disability retirement if in the opinion of the Retirement and Benefit Services Division, such denial is inappropriate, in which case the Division shall assist the Retiree in filing the appeal at no cost to the retiree. No disability retiree who applies for Social Security Disability shall receive less in total benefits as a result of this provision.

The PCG letter states, “Is it not a requirement to use PCG’s services, but retirees who do will receive excellent representation at no cost.” Our concern with the PCG letter is that it interferes with existing contracts between SERS member’s and that members Social Security Disability (“SSD”) attorney.

Proposed changes to the letter:

**Retaining a private attorney of your own choosing would also result in no cost to you as a result of the State's offsetting the attorney's fee from any Social Security benefit paid to it.**

**Retirees who already have representation should disregard this letter.** This sentence should be inserted above the dotted line of the PCG SSAMS document.

For claimants already represented by an attorney, this letter can interfere with the attorney-client relationship. The letter implies that, if a claimant continues to be represented by an attorney or is planning on hiring an attorney, then the claimant will pay a fee, while PCG representation is free. This is not the case. A state employee who is granted benefits after using an attorney for a state disability claim and also for a social security claim, does not incur any cost for the representation for the Social Security claim. This is because the attorney fee is subtracted from any overpayment a grant of SSD may cause. The 2017 SEBAC prevents a SERS employee from incurring any cost regardless of who represents them in front of the Social Security Administration.

The CBA takes interference with the attorney-client relationship seriously, however, we believe there is a solution which promotes the State's goal of reducing taxpayer costs and the attorney's goal of representing the SERS member without interference in front of the Social Security Administration.

We are requesting the RSD and PCG letter include language that informs the member that the letter should be disregarded if the member is already represented and that no member will have a cost associated with his or her Social Security Disability claim whether they chose to proceed with PCG or an attorney representative. The Letter should explain that the attorney fee will be credited to the member when calculating the disability pension.

Additionally, we are requesting that language notifying the member of a potential conflict of interest, that SERS and PCG may not be working for the interest of the claimant exclusively.

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CBA President

Enclosure:

- 1) PCG SSAMS Letter
- 2) SERS letter