

# Rules

May 12, 2022

## OP&F

- 742-1-02 Member minimum medical testing and diagnostic procedures (No change)
- 742-3-05 Disability benefits procedure (No change)
- 742-3-08 Interim payments
- 742-3-09 Subsequent public employment of individuals retired under one of the Ohio public retirement systems (No change)
- 742-3-29 Mandatory direct deposit (No change)
- 742-4-09 Calculation of interest (No change)
- 742-7-09 Payment of medicare Part "B" premium; treatment of medicare part "B" payment (No change)
- 742-9-15 Calculation of penalties/interest (No change)

## STRS

- 3307:1-4-01 Compensation includible in the determination of final average salary

742-1-02

**Member minimum medical testing and diagnostic procedures.****(A) Requirements.**

Pursuant to section 742.38 of the Revised Code, all employers of prospective members of the Ohio police and fire pension fund (OP&F) are required to do the following:

**(1) Physical examination for prospective OP&F members.**

The employer shall cause the prospective members of OP&F to submit to a physical examination which includes the minimum medical testing and diagnostic procedures set forth in paragraph (B) of this rule.

**(2) Tests done before employee's membership in OP&F.**

The physical examination which includes the minimum medical testing and diagnostic procedures prescribed by this rule must be done no later than eleven fifty-nine p.m. on the date the employee becomes an OP&F member, but in no event can the tests and procedures be done earlier than nine months before that membership date.

**(3) Physician's report filed with OP&F.**

The employer must file a physician's report with OP&F that meets the following criteria:

- (a) The physician certification must be in the form prescribed by OP&F or a form substantially similar, as determined by OP&F in its sole and absolute discretion, which must include the physician's diagnosis and evaluation of the existence of any cancer, heart disease, cardiovascular disease, or respiratory disease identified in the medical testing and diagnostic procedures established under this rule. The physician certification must be fully completed and signed by a licensed physician who is licensed to practice medicine in the state in which the examination was conducted, and the physician certification must state the date of the examination and the report cannot be signed more than nine months before the potential employee's membership with OP&F;
- (b) The member's medical questionnaire completed by the member must be in the form prescribed by OP&F and cannot be signed more than nine months before the potential employee's membership with OP&F; and

(c) From and after the effective date of this rule, copies of the medical tests and procedures and medical questionnaire outlined in this rule must be included as part of the physician's report.

(4) The physician's report must be timely filed with OP&F.

In order to be timely filed, a properly completed physician certification, medical questionnaire meeting the criteria of this rule, and copies of the required medical testing and diagnostic procedures outlined by this rule, must be received by OP&F no later than sixty days after the employee becomes an OP&F member, as required by division (A)(2) of section 742.38 of the Revised Code.

(B) Minimum medical testing/diagnostic procedures.

The minimum medical testing and diagnostic procedures to be incorporated into a member's physical examination administered by physicians to prospective members of the fund shall include the following:

- (1) Spirometry that represents at least a valid and reproducible forced expiratory volume at one second (FEV1), forced vital capacity (FVC), and forced expiratory volume at one second/forced vital capacity (FEV1/FVC) that meets the criteria of the American thoracic society;
- (2) A chest x-ray that is at least a P.A. 72" (i.e. front to back);
- (3) Lipid profile that includes total cholesterol, triglycerides, LDL cholesterol, and HDL cholesterol; and
- (4) A cardiac stress test performed consistent with standard Bruce protocol that includes an electrocardiogram (EKG).

(C) Determination of OP&F membership.

For purposes of administering section 742.38 of the Revised Code and this rule, OP&F will use the occurrence of the following events for purposes of determining when a prospective employee becomes an OP&F member:

- (1) The member's appointment as a "member of the police department" or "member of the fire department," as such terms are defined in divisions (A)(2) and (B)(2) of section 742.01 of the Revised Code respectively; and
- (2) The date on which the prospective member became a "member of the fund," as defined in division (E) of section 742.01 of the Revised Code; and

- (3) The first date on which the employee is contributing or should have been contributing a percentage of his/her salary to OP&F.

For purposes of this paragraph, OP&F shall consider the first date the employee is contributing a percentage of his/her salary to OP&F to be based on payroll submitted for a pay period six weeks prior to the filing of such payroll, until the actual date is determined by OP&F and at that time, an adjustment of the penalties shall thereafter be made based on the actual dates submitted to OP&F by the employer on a form provided by OP&F.

- (D) For members who are reinstated to OP&F membership by agreement or by order of a court or arbitrator, no new pre-employment physical will be required. In order to make this determination, the employer shall provide OP&F with a copy of the agreement or court order.
- (E) In cases where the person was laid off from an OP&F covered employer and the person already has a proper pre-employment physical on file with OP&F and returns to an OP&F covered position within two years of the effective date of his/her lay-off and accumulated member contributions remain on deposit with OP&F, no additional pre-employment physical will be required.
- (F) For members who transfer from one employer to another without a loss in membership with OP&F, as outlined above, the new employer will not be required to cause such person to undergo the medical testing and diagnostic procedures referenced in this rule, unless the person became an OP&F member on or after September 16, 1998 and OP&F does not have a pre-employment physical on file that meets the definition set forth in section 742.38 of the Revised Code. In order to reach this determination, however, the new employer will need to obtain this information from OP&F. In the event the original employer did not cause an employee who became an OP&F member on or after September 16, 1998 to undergo all of the tests and procedures outlined in this rule, then OP&F will give notice to the new employer of any tests and procedures that need to be completed and this documentation must be received by OP&F no later than sixty days after the new hire date.
- (G) In no event shall the provisions of this rule be intended to supercede or eliminate any other legal requirement imposed on the employer under Ohio law, including, but not limited to, sections 124.41 and 124.42 of the Revised Code.
- (H) If the employer is unable to obtain a test due to the member's medical condition, the member's religious beliefs or the member's refusal to undergo a specific test, the employer shall provide supporting documentation to OP&F in support of such fact and may request a waiver of such test or report for such reason. If the waiver request is for medical reasons, the supporting documentation shall be in the form

of a medical report signed by a licensed physician in the state in which the medical examination was conducted, if the waiver request is for religious reasons, the supporting documentation shall be in the form of an affidavit signed by the member before a notary public that certifies such fact, and if the waiver request is the result of the member's refusal, the supporting documentation shall be in the form of a written document signed by the member before a notary public that certifies that fact and acknowledges that the member understands that his/her refusal shall result in his/her inability to use the presumptive disability provision outlined in section 742.38 of the Revised Code.

Within thirty days after OP&F's receipt of such request, OP&F shall notify the employer if such waiver is granted. If OP&F grants a waiver, the employer shall not be obligated to cause such person to undergo the specific tests specified in such waiver.

Any waiver granted under the terms of this section shall result in the member's inability to use the presumptive disability provisions outlined in section 742.38 of the Revised Code.

Five Year Review (FYR) Dates: 4/18/2022 and 04/18/2027

CERTIFIED ELECTRONICALLY

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Certification

04/18/2022

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Date

Promulgated Under: 111.15  
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Rule Amplifies: 742.38  
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02/09/2014, 04/06/2017 (Emer.), 06/22/2017,  
07/04/2021

742-3-05

**Disability benefits procedure.**

(A) For purposes of divisions (C)(2), (C)(3), (C)(4), and (C)(5) of former section 742.37 of the Revised Code and section 742.38 of the Revised Code and this rule, the following terms shall have the meanings set forth herein:

- (1) "Board," shall mean the board of trustees of the Ohio police and fire pension fund ("OP&F").
- (2) "Applicant" shall mean a member of OP&F who has filed any type of application for disability retirement benefits or any person who has filed such application on behalf of an incapacitated member in accordance with division (B) of section 742.38 of the Revised Code and rules 742-3-12 and 742-3-13 of the Administrative Code and who does not have benefits vested under the deferred retirement option plan under section 742.444 of the Revised Code.
- (3) "Disability benefit recipient" shall have the meaning described in division (A) of section 742.40 of the Revised Code.
- (4) "On-duty illness or injury" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of a member's appointing authority.
- (5) "Off-duty illness or injury" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of a member's appointing authority. Unless the illness or injury meets the presumption criteria outlined in division (A) of section 742.38 of the Revised Code or competent and credible evidence is submitted to OP&F, a disability condition is presumed to be the result of an off-duty illness or injury.
- (6) "Permanent disability" means a condition of disability with respect to which the board finds that there is no present indication of recovery or those presumptive conditions set forth in division (D)(3) of section 742.38 of the Revised Code, which shall be determined through the medical reports filed with OP&F, as required by the terms of division (A)(1) of section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (7) "Total disability" shall have the meaning set forth in division (D)(1)(a) of section 742.38 of the Revised Code.
- (8) "Partial disability" shall mean a condition of disability with respect to which the board finds the applicant is prevented from performing the member's official police or fire duties and member's earnings capacity is impaired.

- (9) "Guides" shall mean the American medical association's "Guides to the Evaluation of Permanent Impairment, fifth and sixth editions."
- (10) "Occupational characteristics" shall mean the U.S. department of labor's occupational characteristics for police officer (government service) and fire fighter (any industry) positions as the standards for determining the presence or absence of disability.
- (11) "Medical Advisor," as referred to in this rule, shall mean the expert physician appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (12) "Vocational Expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (13) "Disability evaluation panel (DEP)" shall mean that panel established by the board to make written recommendations to the board on pending disability applications. The DEP shall be comprised of three voting members and at least two non-voting members. The three voting members of the DEP shall be members of the board, who shall be the members of the disability committee, who shall be appointed to such committee by the chairman of the board, and shall be comprised of one active firefighter trustee, one active police officer trustee, and one retiree trustee. The non-voting members of the DEP shall be comprised of expert physicians, including the alternate, all of whom are appointed by the board of trustees and at least one of the non-voting members shall be an expert in vocational evaluations, including the alternate, who shall provide vocational assessments of disability applicants to the DEP. The alternate non-voting member of the DEP shall be a physician appointed by the board of trustees and shall serve in the place of a non-voting member of the DEP in the absence or incapacity of any other non-voting physician member of the DEP.
- (14) "DEP medical advisor," as referred to in this rule, shall mean the expert physician appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-retirement disability reconsiderations, who shall be a different physician than the medical advisor.
- (15) "DEP vocational expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-



retirement disability reconsiderations, who shall be a different evaluator than the vocational expert.

- (16) "Forms" shall mean the forms created, approved, and/or provided by OP&F for the administration of benefits found on the OP&F website at <http://www.op-f.org>.

(B) Impairment and disability evaluation criteria:

- (1) OP&F staff shall work with its advisors and/or physicians who are members of the DEP and shall assign a competent and disinterested physician and expert in vocational evaluations to conduct medical examinations for purposes of determining a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits.
- (2) In evaluating a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits, the DEP and the board will use the official duties provided by the employer, but in the event such information is not provided by the employer or does not clearly define the applicable job duties, the board and the DEP shall use the criteria contained in the "guides", the occupational characteristics adopted by the board and the criteria set forth in division (D) of section 742.38 of the Revised Code.
- (3) In evaluating a member's eligibility for disability retirement benefits, the physicians, the expert in vocational evaluations, the DEP, and the board shall consider the member's potential for retraining and reemployment and the eligibility criteria set forth in division (D) of section 742.38 of the Revised Code so that the person's ability to be retrained and reemployed shall include any positions, not just police or fire positions.
- (4) The consideration of a member's application shall be limited to the disabling condition(s) listed in the application if supporting medical documentation is provided to OP&F or disclosed by the examination of the physician(s) selected by OP&F. The DEP and the board shall consider and base its findings and recommendations on all competent evidence made available to it, including medical testimony, opinions, statements, and medical reports submitted by the member's employer under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (5) One of the physician non-voting members of the DEP and one of the non-voting members of the DEP who is an expert in vocational evaluations shall submit to the board's disability committee or DEP a written recommendation on each application evaluated followed by a report incorporating a summary of findings,

as outlined in the DEP operating guidelines, which is approved by the board of trustees, along with their medical opinion as to whether or not the disabling condition results from an on-duty illness or injury and is waivable under the DEP operating guidelines for the DEP physicians and the vocational evaluation from the DEP vocational expert.

- (6) In reviewing applications for disability benefits, the DEP and the board shall rely upon the medical opinions of the DEP physicians and OP&F's medical advisor, who have given due consideration of medical and other evidence presented to OP&F.

(C) Initial application.

- (1) Applications for disability benefits shall be made on the disability application form approved by the board and must be in proper form in order to be processed. The member shall provide necessary substantiating documentation, including but not limited to pertinent hospital records, statements from attending physicians, departmental injury reports, the results of any special diagnostic tests, notice of allowed workers' compensation claims, and any pre-employment physicals or records required or requested under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (2) OP&F shall notify the member's employer that an application has been filed and will send a courtesy copy of such notice to the member within fourteen days after receiving an application for disability benefits from a member or a person acting on behalf of a member, as required by the terms of division (B) of section 742.38 of the Revised Code. The notice shall state only the position or rank, as required by the terms of division (B) of section 742.38 of the Revised Code.
- (3) For those notices sent under paragraph (C)(2) of this rule, the member's employer shall forward to the board a statement certifying the job description for the position or rank and any other information required by the board to process the application and such report or statement shall be filed with the board not later than twenty-eight days after the employer's receipt of the notice referred to in paragraph (C)(2) of this rule or filing an application on behalf of a member, whichever is the first to occur.
- (4) The member's employer shall forward the physician's report of the member's physical examination taken on entry into the police or fire department, as more fully provided in division (A)(1) of section 742.38 of the Revised Code. If the employer fails to forward such report to OP&F on or before the date that is sixty days after the member becomes an OP&F member, division (A)(2) of section 742.38 of the Revised Code requires OP&F to assess against the

employer a penalty determined under section 742.353 of the Revised Code and rule 742-8-08 of the Administrative Code. Even though a member may not have a disabling condition that is presumed, by law, to have been incurred in the member's performance of his/her official duties, that does not foreclose the member from being awarded a service-incurred disability grant.

- (5) OP&F shall schedule the member covered by the pending disability benefit application for examination by at least one medical examiner and one expert in vocational evaluations designated by OP&F, unless it is medically inadvisable to do so.
  - (a) Payment of any fees connected with the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.
  - (b) Payment of any fees connected with the preparation of report of the examining physicians or vocational evaluators of OP&F shall be the responsibility of OP&F.
- (6) When all the necessary medical reports and records have been received by OP&F, including those reports required or requested under paragraphs (C) (3) and (C)(4) of this rule, OP&F shall schedule such application for review and consideration by the DEP, who shall make a written recommendation to the board based upon the criteria set forth in paragraph (B) of this rule. The board, based on the written recommendation of the DEP, will then consider the application and make an initial determination of disability. The board may:
  - (a) Grant a disability benefit;
  - (b) Deny disability benefits; or
  - (c) Postpone determination, pending an additional examination, or the submission of additional fact.

The member covered by a pending disability retirement application may withdraw the application through a written authorization filed with OP&F at any time prior to the board's award of the initial determination of disability. To the extent that a pending disability application is withdrawn by a member, the withdrawn application shall not be presented to the DEP or the board, depending on when it's received by OP&F.

- (7) Copies of the reports of the independent medical and vocational evaluators will be sent to the member and the member's agent upon their request, unless the release of such reports is otherwise prohibited by law. The DEP recommendations will

not, however, be released until the board has made an initial determination of disability. For purposes of the initial determination hearing, OP&F will not consider any documents from a member or a member's agent that seek to rebut or comment on the reports of the independent medical and vocational evaluators.

- (8) Any disability benefit award determined by the board shall be effective as of the date that the board made its initial determination of disability on such pending disability retirement application.
- (9) The member covered by the pending disability retirement application shall be notified of the board's initial determination of disability within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The member covered by the pending disability retirement application shall be advised of his or her right to:
  - (a) Accept the benefit grant;
  - (b) Waive the benefits and continue working; or
  - (c) Appeal the initial determination of the board.

(D) Acceptance or waiver of benefits.

Not later than ninety days after receipt of the notice of the board provided for in paragraph (C), (E), or (F) of this rule, the disability benefit recipient shall accept or waive the board's determination of disability on the disability benefit election form provided by OP&F. For purposes of making the determination whether the disability applicant has accepted or waived the board's determination of disability, the fund may conclusively rely upon the fund's books and records.

- (1) If no such election is filed with OP&F within the ninety-day time period provided in paragraph (D) of this rule, the award shall be rescinded.
- (2) Subject to the requirement set forth in paragraph (D) of this rule, if a member accepts the award and then fails to establish an effective date of retirement by terminating police or fire employment within ninety days of receipt of notice of the board's determination of disability, as provided under paragraph (C)(9) or (E)(5) of this rule, the disability benefit shall be rescinded.
- (3) A member whose benefits are rescinded pursuant to paragraph (D)(1) or (D)(2) of this rule shall not be foreclosed from later filing another disability benefit application with OP&F and any subsequent applications shall be treated as a new application for disability benefits, except to the extent that such member

does not meet the eligibility requirements set forth in division (D) of section 742.38 of the Revised Code.

(E) Appeal of initial determination.

- (1) Upon a member's appeal of the board's initial determination of disability, the board shall be advised by its medical advisor and vocational expert. The board shall not be under any obligation to adopt the recommendation of its medical advisor or vocational expert if there is some evidence to support a contrary finding.
- (2) A member who wishes to appeal the board's initial determination of disability shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of the board's initial determination of disability referred to in paragraph (C)(6) of this rule. The notice of appeal must contain the member's name, social security number and a brief description of the decision upon which the appeal is based.
- (3) Within sixty days of filing of the notice of appeal, the member shall file with OP&F any new evidence not previously considered by the board on the initial disability application. Failure to submit supporting materials or to request an extension of time within which to do so will be sufficient cause for the director of member services to dismiss the appeal provided OP&F gives the member prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the member fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, the director of member services, for good cause shown, may grant the appellant an extension of sixty days within which to file supporting materials. The director of member services may grant the appellant an additional extension based on a recommendation from the DEP medical advisor that there is solid evidence of a medical reason to grant the extension for a period of time recommended by the DEP medical advisor. In no event shall the hearing be postponed more than three times and in no event shall the extensions, in the aggregate, exceed one year.
- (4) Depending on the basis for the appeal and the new evidence submitted by the member, OP&F may request that the member undergo a new medical examination and/or vocational evaluation by an OP&F-appointed examining physician and/or vocational evaluator. OP&F may also provide the new evidence to the original OP&F-appointed examining physician and/or vocational evaluator and request that they review the new evidence and provide OP&F with an addendum to their original reports. The new evidence submitted by the member and any additional medical and/or vocational reports,

including addendum reports, shall be forwarded to the board's medical advisor and vocational expert for review and consideration. The medical advisor and vocational expert will then provide recommendations to the board regarding the member's disability application.

- (5) Upon receipt of the recommendations from the medical advisor and vocational expert, the board shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time and place thereof in writing. Such hearings shall be scheduled within sixty days of the receipt of the reports of the medical advisor and vocational expert. Any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A recording of the hearing will be made to provide the board and the medical advisor with a record for further review. Such recording of the hearing shall be available to the disability applicant and to those individuals who are authorized by the disability applicant to receive such information on the authorization to release medical records form provided by OP&F.
- (6) Following the hearing on appeal, the board may choose to:
  - (a) Affirm the original determination of disability;
  - (b) Modify the original determination of disability;
  - (c) Deny the disability application; or
  - (d) Postpone a decision pending additional examinations or documentation.  
The board's decision on appeal shall be the final determination of the initial disability application, subject to the foregoing time limitations on extensions that can be granted.
- (7) The applicant shall be advised of the board's action within thirty days after the board's final determination of disability and such notice shall be sent by certified mail, return receipt requested. The member covered by the disability appeal shall be advised of the member's right to:
  - (a) Accept the benefit granted;
  - (b) Waive the benefit and continue working; or
  - (c) File a mandamus action.

(F) Post-retirement disability reconsideration.

- (1) A member who is receiving a less than maximum partial disability and who believes that deterioration of the disabling physical or mental condition awarded by the board has increased the amount of disability, may apply for a reconsideration. Such application shall be on the disability reconsideration application form prepared by OP&F, which shall be dealt with on not less favorable terms than the process used by the DEP for recommendation to the board on initial determinations of disability. The member shall supply substantiating documentation including:
    - (a) Recent medical reports and physician's statements;
    - (b) A wage statement including taxable earnings for the last five years of retirement, primary employers and occupations, and rehabilitation and training programs pursued.
  - (2) The DEP shall review such evidence and shall make a written recommendation to the board. The board shall, based on the written recommendation of the DEP, review the evidence submitted, and may decide to:
    - (a) Deny the application for reconsideration;
    - (b) Approve the application and modify the disability benefit effective the first of the month following the decision; or,
    - (c) Postpone a determination of the application pending further physical examination, or further documentation.

The board's decision shall be the final determination of an application for reconsideration.
  - (3) The member shall be advised of the board's final determination within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The letter shall include notice of the member's right to request a new reconsideration, but the board will consider only one application for reconsideration from a member during any twelve-month period.
- (G) Notwithstanding anything herein to the contrary, once a member has deposited, negotiated, or cashed a disability benefit check from OP&F, or failed to withdraw his/her retirement application, as outlined in rule 742-3-17 of the Administrative Code, that member may not apply for any new, increased, or additional benefit for the disabling condition(s) described in such application, except for a member who is granted an off-duty disability less than the maximum amount permitted under division (D)(4) of section 742.38 or former division (C)(5) of section 742.37 of the Revised Code, or a member who had fewer than twenty-five years of service credit

and was granted a partial disability in an amount less than the maximum permitted by division (D)(2) of section 742.38 or former division (C)(3) of section 742.37 of the Revised Code, may apply for an increase in payments to the maximum amount provided by those sections upon evidence of deteriorating earning capacity. Any subsequent request by that member shall be treated as a new application under this rule. In addition, a member may elect to receive interim payments without waiving the member's right to appeal a disability award, as provided for in paragraph (E) of this rule.

(H) Additional medical treatment:

- (1) As a condition to granting an applicant disability benefits or continuing disability benefits under an existing award, as provided in division (B) of section 742.40 of the Revised Code, the member shall agree in writing to obtain any medical treatment recommended by the board's physician(s) and submit the required medical reports over the course of the treatment period.
- (2) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol and/or drug rehabilitation, or mechanical devices.

(I) If the member fails to:

- (1) Obtain the recommended treatment required under division (B) of section 742.40 of the Revised Code, as referenced in paragraph (H) of this rule,
- (2) File the required medical report or
- (3) Comply with the required treatment regimen, the board may suspend the awarded disability benefits and any health care stipend upon ninety days prior written notice to the disability benefit recipient.
  - (a) If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of disability benefits and any health care stipend shall be effective on the first day of the month immediately following the expiration of such notice period until the treatment is obtained, the required report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable.
  - (b) In the event the disability benefit recipient complies within the aforementioned ninety day notice period or the board's physician certified that the treatment is no longer helpful or advisable, OP&F will not



suspend the disability benefit recipient's disability benefits and any health care stipend.

- (J) If, after the aforementioned ninety day notice period, referred to in paragraph (I) of the rule, the disability benefit submits to the requested treatment, submits the required reports, or complies with the required treatment regimen or the board's physician certifies that the treatment is no longer helpful or advisable, OP&F will reinstate the disability benefits and any health care stipend of such disability benefit recipient, effective as of the first day of the month immediately following the month in which the past due statement(s) were received in proper form by OP&F.
- (K) If the refusal to submit to the medical examination, as required by the terms of division (C)(2) of section 742.40 of the Revised Code and such failure continues for one year, whether documented by the fund's books or records or as presumed as provided in rule 742-3-10 of the Administrative Code, then the disability benefit recipient's disability benefits and any health care stipend shall be forfeited, as required by the terms of division (C)(2) of section 742.40 of the Revised Code effective as of the date of the original suspension, as referenced in a writing provided to the disability benefit recipient from the fund or the board.
- (L) For purposes of determining whether the recipient has refused to comply with the provisions of this division (C)(2) of section 742.40 of the Revised Code and this rule, the fund may conclusively rely upon the fund's books and records.
- (M) Except as expressly provided in this rule or section 742.40 of the Revised Code, all notices to the disability benefit recipient or applicant shall be either delivered personally, sent by express delivery service, certified mail, or first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the most recent address set forth in such recipient's file with the fund, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to the fund or the board shall be addressed at its principal place of business. Except as otherwise specifically provided for in this rule, notices will be deemed given as of the earlier of:
- (1) The date of actual receipt;
  - (2) The next business day when notice is sent via express mail or personal delivery; or
  - (3) Three days after mailing in the case of first class or certified U.S. mail.
- (N) If an initial application for disability, an appeal, or a post-retirement application has been filed pursuant to paragraph (C), (E), or (F) of this rule and the supporting documentation has not been filed with OP&F or the applicant has not taken any action

to prosecute his/her claims within six months of the filing with OP&F, the director of member services shall have full authority to dismiss the application, appeal, or post-retirement application, as the case may be, for failure to prosecute the claim provided OP&F gives ninety days prior written notice to the member of the need to file certain documentation with OP&F and the member fails to file the necessary documentation with OP&F before the expiration of such ninety day time period.

(O) In determining whether a member had a physical examination before entry into the department, as required in division (D)(3) of section 742.38 of the Revised Code, OP&F shall use the following criteria:

(1) For disability benefit applicants who became "members" of OP&F prior to September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if OP&F receives the following:

(a) A writing signed by a licensed physician that documents the examination of the member prior to his/her entry into the police or fire department, as the case may be, and the writing is dated prior to the person becoming a "member" of OP&F, as such term is defined in division (E) of section 742.01 of the Revised Code or the person's entry into the department where the person is employed at the time of the filing of the disability application, provided such date is not more than nine months prior to such date; and

(b) The writing signed by a licensed physician does not document the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

(2) For disability benefit applicants who became "members" of OP&F after September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if the physician's report meets the requirements set forth in paragraph (A) (3) of rule 742-1-02 of the Administrative Code prior to the person becoming a "member" of OP&F or before the person's entry into the department where the person is employed at the time of the filing of the disability application, the physician's report does not diagnose the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (3) In the event the record of a member's pre-employment physical is lost, destroyed or unavailable, the board may waive the requirement that the absence of disease be evidenced by a physical examination prior to employment as described in paragraphs (O)(1) and (O)(2) of this rule if there is competent medical evidence, as determined by the board's physicians and/or medical advisor, that the cardiovascular or respiratory disease was not evident prior to or at the time of entry into the department.
- (4) For members who do not meet the criteria set forth in division (D)(3) of section 742.38 of the Revised Code and this rule, this will not preclude the member from being granted a duty-related disability if the member is able to document that the disability resulted from the performance of the member's official duties as a member of the police or fire department, as the case may be.

(P) Firefighter cancer presumption:

- (1) In order to be eligible for the presumption described in division (D)(3)(b) of section 742.38 of the Revised Code, a member of a fire department who is applying for disability with cancer as an alleged disabling condition shall complete a questionnaire on a form provided by OP&F. The questionnaire shall be submitted to OP&F at the time of the initial application for disability benefits.
- (2) If the member certifies on the questionnaire required by paragraph (P)(1) of this rule that he or she was assigned to at least six years of hazardous duty as a member of a fire department and has had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen, the member shall provide OP&F with all documentation in support of such certification, including exposure reports, incident reports, shift logs, approved workers compensation claims, or other similar documentation.
- (3) The cancer presumption can be rebutted by evidence that demonstrates that the cancer was not incurred in the line of duty. Such evidence includes, but is not limited to, documentation which shows that the member:
  - (a) Incurred the cancer before becoming a member of a fire department;

- (b) Used cigarettes or other tobacco products, and such usage was a significant factor in the cause or progression of the cancer;
  - (c) Was not assigned to at least six years of hazardous duty as a member of a fire department, or twenty years or more have passed since the member was last assigned to hazardous duty as a member of a fire department;
  - (d) Has not had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen;
  - (e) Incurred the cancer as a result of employment or business that is secondary to his or her employment as a member of a fire department;
  - (f) Is not receiving workers compensation for a cancer diagnosis; and
  - (g) Has undergone genetic testing which indicates a predisposition for contracting certain cancers.
- (4) As part of the information that an employer is required to submit to OP&F under division (B) of section 742.38 of the Revised Code, the employer shall certify the following:
- (a) Whether or not the member was assigned to at least six years of hazardous duty as a member of a fire department, and provide the dates of all hazardous duty assignments, if available; and
  - (b) Whether or not the member has had any exposures to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

Five Year Review (FYR) Dates: 4/18/2022 and 04/18/2027

CERTIFIED ELECTRONICALLY

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Certification

04/18/2022

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Date

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Rule Amplifies: 742.38, 742.353  
Prior Effective Dates: 01/01/1977, 05/12/1983, 07/26/1986 (Emer.),  
10/16/1986, 10/12/1989, 07/28/1995, 10/15/1997,  
10/10/1998 (Emer.), 03/29/1999, 05/01/2000,  
10/23/2000, 03/19/2001, 09/07/2001 (Emer.),  
11/23/2001, 03/22/2004, 02/16/2006, 07/24/2008,  
10/16/2008, 01/22/2009, 08/02/2010 (Emer.),  
10/17/2010, 06/07/2013, 12/26/2013, 01/20/2016  
(Emer.), 04/07/2016, 04/06/2017 (Emer.), 06/22/2017,  
01/01/2019 (Emer.), 03/29/2019

742-3-08

**Interim payments.**

- (A) "Interim payment" is defined as the stream of monthly cash partial payments made to a member of Ohio police & fire pension fund (OP&F) in order to expedite the initiation of a pension or benefit to which the member is entitled while OP&F determines the final pension or benefit amount to be paid the member.
- (B) Any OP&F member who has met all the qualifications for service or disability retirement under section 742.37 or 742.39 of the Revised Code, respectively, who has filed all forms or documents necessary to process an application for a pension or benefit, and who is not receiving a pension or benefit from OP&F is eligible to receive an interim pension or benefit payment described in paragraph (C) of this rule.
- (C) Any OP&F member who meets the requirements set forth in paragraph (B) of this rule shall be paid an interim payment under the following conditions:
- (1) The receipt of an interim payment is as binding on the member as the receipt of the regular payment of a pension or benefit. The retirement is permanent, and cannot be cancelled, the effective date cannot be changed, or the type reclassified, except that a member may elect receiving interim payments without waiving the right to appeal a disability award, as provided for in rule 742-3-05 of the Administrative Code.
  - (2) Ultimately, all interim and adjusting payments will equal the full pension or benefit which a member is entitled to receive from OP&F.
  - (3) The calculation of the interim payment amount is based on the computation criteria or policy approved by OP&F's board from time to time.
  - (4) The member shall be deemed to consent to the recovery of any overpayment by deduction from the member's monthly pension or benefit. The recovery shall be accomplished in a period not to exceed the period over which the overpayment occurred.
  - (5) The member shall be informed that once the first interim payment is ~~negotiated~~ cash or deposited, the member can no longer purchase or reinstate any service credit. ~~For purposes of this rule, negotiation will include the member or the member's authorized agent cashing, negotiating, or depositing of the warrant issued to the member.~~
  - (6) While a member is receiving interim payments, OP&F shall not make any payments for cost of living adjustments. Any cost of living allowances due the member shall be paid once the member is converted to a final payment.

- (D) As required by law, the board shall require that the interim payment amount for a married member be reduced based on the member ultimately selecting a plan of payment naming the member's spouse as beneficiary, unless the spouse consents to a different designation, or former spouse as beneficiary as required by a court order, but subject to the limitations outlined in section 742.3711 of the Revised Code and rules 742-3-07 and 742-3-24 of the Administrative Code. A member who is receiving an interim payment can change an annuity payment plan selection at any time prior to ~~negotiating the direct deposit or cashing of~~ the first adjusting or regular benefit payment that represents the final benefit amount payable to the member, but subject to the limitations outlined in section 742.3711 of the Revised Code and rules 742-3-07 and 742-3-24 of the Administrative Code.
- (E) No interim payment can be made to a member unless the member's former employer has certified the last day the member earned compensation by virtue of working or using accumulated leave to remain on active payroll status.
- (F) The receipt of an interim payment has no effect whatsoever on any election made pursuant to division (D) of section 742.3716 of the Revised Code.
- (G) In the event that a married member dies before ~~negotiating~~ the adjusting payment is deposited or cashed and was receiving an interim payment under a payment plan that provides for less than fifty per cent of the member's reduced allowance to be paid to the surviving spouse, then the surviving spouse is entitled only to the allowance provided by the most recent payment plan selected by the member.
- (H) For designation of beneficiaries made under division (A)(4) of section 742.3711 of the Revised Code, the member will not be permitted to change the designation of beneficiaries during the interim payment process. The member will be permitted to change the amount payable to a beneficiary during the interim payment process if proper paperwork is submitted to and approved by OP&F.

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02/16/2006, 10/26/2006 (Emer.), 01/12/2007,  
04/05/2012, 04/30/2017



742-3-09

**Subsequent public employment of individuals retired under one of the Ohio public retirement systems.**

- (A) The requirement under section 742.26 of the Revised Code that benefits be forfeited if employment occurs under another Ohio public retirement system shall apply only to retirants from the Ohio police and fire pension fund ("OP&F") with effective benefit dates on or after August 30, 1991.
- (B) For the purposes of section 742.26 of the Revised Code, the effective retirement benefit date for an individual granted "deferred" retirement under Chapter 742. of the Revised Code shall be the date upon which the retirement allowance commences.
- (C) Individuals who are receiving benefits under OP&F will forfeit benefits for any month in which employment under another Ohio public retirement system occurs before the lapse of sixty days from the effective retirement benefit date (the "forfeiture period"). Forfeiture will not occur if the individual was employed in any position under another Ohio public retirement system on the effective retirement benefit date and had been continuously employed for sixty days before the effective retirement benefit date.

For purposes of determining whether a member has been continuously employed, OP&F shall consider a member to be "continuously employed" if one of the following criteria is met:

- (1) OP&F receives documentation that shows that the member received regular earnings during the forfeiture period from an employer who is a contributing employer with another Ohio retirement system; or
  - (2) If there is a break in regular earnings during the forfeiture period, OP&F receives documentation that evidences the continuation of the member's employment relationship in the form of a contract that governs the forfeiture period and includes the member's job description or the member's employer provides a certification to OP&F that confirms the existence of a long term and continuous relationship, which included the forfeiture period.
- (D) Where an individual has established membership in more than one Ohio public retirement system in addition to OP&F, active accounts established under all public retirement systems must be handled/disposed of as of the effective retirement benefit date. Any election, once made, is irrevocable except as otherwise provided. An individual must exercise one of the following options:
- (1) If, as of the effective retirement benefit date, the individual has established service sufficient to entitle the individual to a benefit under one of the other Ohio public retirement system(s), the individual may elect to take retirement from the other system(s) to be effective the first day of the next month following the latter of

the individual's effective retirement benefit date from OP&F or satisfaction of age and other eligibility requirements for retirement in the other system(s); or

- (2) The individual may refund the account(s) with the other public retirement system(s) in accordance with the law of each retirement system.
  - (3) Where the individual has continuously been employed in any position(s) covered by the other public retirement system(s) for sixty days prior to the individual's retirement benefit date and will continue to be so employed after retirement, the individual shall be given the option of converting the account(s) with such other public retirement system(s) to a post retirement money purchase account(s) with allowable interest compounded only from the individual's effective retirement benefit date.
- (E) On termination of employment, a reemployed retirant may choose to receive reemployed retirant benefits as either a monthly annuity or a one-time lump sum payment of his or her participant contributions, subject to the spousal consent requirement provided in divisions (F)(2)(a) and (H)(1) of section 742.26 of the Revised Code. The monthly annuity will be paid on the first day of the month following the latest of: the day employment was terminated; the attainment of age sixty; or one year from the date the member began receiving another OP&F defined contribution benefit. The one-time lump sum payment can be made if the retirant has not attained age sixty, but only if the retirant has terminated employment, three months have elapsed since the termination of re-employment, and the retirant has not returned to service during the three-month period.
- (F) For those reemployed retirants who have attained the age of sixty, the calculation criteria for the re-employed retirant benefits under division (F)(2) or (H) of section 742.26 of the Revised Code is as follows:
- (1) The interest rate shall be calculated according to paragraph (F)(2) of this rule.
  - (2) Interest shall be credited to accounts only at the time of calculation of a payable benefit. Interest will be calculated based on the balance of the participant's contributions and previously earned interest as of December thirty-first of each year until a lump sum is paid or an annuity commences. Pro rata interest is credited for the final partial year in which the payment of the benefit commences. Effective the first business day of the second quarter of 2012, the compounded interest rate shall be adjusted quarterly at a rate based on the "10-Year U.S. Treasury Note Business Day Series," as published by the board of governors of the federal reserve. In no event, however, shall the rate of interest exceed five per cent.

- (3) Matching contributions are the amount equal to the participant contributions deducted from the salary of the OP&F retiree, together with interest credited thereon consistent with the provisions of paragraph (F)(2) of this rule. For purposes of this paragraph, "salary" shall have the same meaning as set forth in division (L) of section 742.01 of the Revised Code.
  - (4) The lump sum value shall be the sum of the participant contributions with interest and the matching contributions.
  - (5) The annuity form shall consist of the actuarial present value of which is equal to two times the sum of all amounts deducted from the salary of the OP&F or other system retiree, plus interest credited thereon at a rate determined by the board, less contributions excluded under division (D) of section 742.26 of the Revised Code. For purposes of this paragraph, "salary" shall have the same meaning as division (L) of section 742.01 of the Revised Code.
  - (6) The mortality table used for the annuity is based on the mortality assumption for healthy post-retirement members as stated in OP&F's most recent actuarial valuation, which is currently the 1994 group annuity mortality table (female only), set forward two years for all retirees.
  - (7) The interest rate used to calculate the annuity will be the assumed rate of return defined in OP&F's most recent actuarial valuation.
- (G) For those reemployed retirees who have not attained the age of sixty, the calculation criteria for the reemployed retiree benefits under division (H) of section 742.26 of the Revised Code is as follows:
- (1) The lump sum value shall be the sum of the participant contributions, less the matching contributions, plus interest.
  - (2) The interest rate shall be calculated according to paragraph (F)(2) of this rule.
- (H) If an OP&F retiree or other system retiree dies after terminated employment subject to section 742.26 of the Revised Code but before being eligible to receive a defined contribution plan benefit, then the retiree's surviving spouse, or if there is no surviving spouse, the retiree's estate, shall be paid a lump sum payment in accordance with division (F)(2) of section 742.26 of the Revised Code effective the first of the month following the reemployed retiree's date of death.
- (I) A reemployed retiree who is not subject to the spousal consent requirement provided in division (F)(2)(a) of section 742.26 of the Revised Code and who selects the plan of payment provided in division (F)(2)(b)(ii) of section 742.26 of the Revised Code shall designate a sole beneficiary at the time the plan is selected and shall also select the

portion of the retirant's lesser retirement allowance to be paid to the sole beneficiary after the retirant's death. The portion of the retirant's lesser retirement allowance shall be expressed as a percentage, which may be any percentage from one to one hundred.

- (J) A reemployed retirant who elects to receive a monthly annuity as provided in division (F) (2) of section 742.26 of the Revised Code shall not be permitted to designate multiple beneficiaries when selecting a plan of payment.

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CERTIFIED ELECTRONICALLY

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Certification

04/18/2022

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Date

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Rule Amplifies:	742.26
Prior Effective Dates:	12/07/1992, 10/23/2000, 01/22/2004, 03/19/2007, 06/21/2012, 03/22/2018

742-3-29

**Mandatory direct deposit.**

- (A) As used in this rule, "alternate payee" shall be as defined by section 3105.80 of the Revised Code.
- (B) Except as provided in paragraph (C) of this rule, effective August 1, 2017, an individual who receives an annuity, pension, allowance, monthly benefit, or monthly payment from the Ohio police and fire pension fund ("OP&F") shall be paid by direct deposit, which is an electronic fund transfer directly to an individual's account at a financial institution. Retirants, benefit recipients, and alternate payees shall provide to the retirement system valid direct deposit account and routing numbers, the name and contact information of the financial institution, and other such information as may be required by OP&F. OP&F may withhold payment until the individual provides the information described in this paragraph.
- (C) If a retirant, benefit recipient, or alternate payee resides outside the United States, in a nursing or convalescent home, correctional facility, jail, or prison, or similar situation such that compliance with paragraph (B) of this rule is impracticable, the individual may submit a written request for exemption from direct deposit and OP&F staff shall approve or deny the request.

Five Year Review (FYR) Dates: 4/18/2022 and 04/18/2027

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Date

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Rule Amplifies: 742.37, 742.39  
Prior Effective Dates: 09/22/2008, 09/25/2013, 05/22/2017

742-4-09

**Calculation of interest.**

- (A) Effective the first business day of the second quarter of 2012, interest shall be calculated quarterly at an adjusted rate based on the "10-Year U.S. Treasury Note Business Day Series," as published by the board of governors of the federal reserve. In no event, however, shall the rate of interest exceed five per cent or be lower than two and a half per cent.
- (B) Beginning January 2, 2003, OP&F shall calculate interest on the DROP participant's DROP benefit on the last day of each month according to the following provisions:
- (1) Interest on the proper amount of employee contributions will be based on the earlier of the date cash is received or the date that the monthly report of employee deductions is due; and
  - (2) Interest on the monthly pension benefit calculated in accordance with section 742.442 of the Revised Code will be based on the first day of each month, regardless of when posted by OP&F.
- (C) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (definitions).



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Rule Amplifies: 742.443  
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(Emer.), 02/10/2020

742-7-09

**Payment of medicare part "B" premium; treatment of medicare part "B" payment.**

- (A) For purposes of division (B) of section 742.45 of the Revised Code, "satisfactory evidence of the payment for coverage" shall mean filing of the medicare part "B" reimbursement statement in the form approved by OP&F or the medicare billing statement, along with a copy of the applicant's medicare card or a letter from medicare in lieu of a medicare card. No retroactive reimbursement will be made. For any inaccurate or incorrect statement made on the medicare part "B" reimbursement statement, OP&F reserves all rights to recover monies associated with a covered person's failure to comply with such provisions.
- (B) In accordance with divisions (C) and (D) of section 742.45 of the Revised Code, OP&F shall not reimburse the medicare part "B" premium to a benefit recipient who is receiving or should be receiving reimbursement for this premium from any other source and the member or benefit recipient shall be deemed to consent to the recovery of any overpayment by deduction from his/her monthly pension or benefit. If another Ohio retirement system is responsible to provide health care to such recipient, OP&F shall not be responsible to pay the medicare part "B" reimbursement. No retroactive payment shall be given.
- (C) The recipient of the medicare part "B" reimbursement shall be deemed to consent to the recovery of any overpayment by deduction from his/her monthly pension or benefit. The monthly deduction shall be an amount equal to the greater of:
- (1) The monthly amount determined by dividing the amount of the overpayment by the time period over which the overpayment occurred;
  - (2) The monthly amount of OP&F's medicare part "B" reimbursement on the month in which deductions are to commence; or
  - (3) The monthly amount agreed to in writing by the recipient.
- (D) Effective January 1, 2002, the reimbursement of medicare part "B" payments made by OP&F to eligible beneficiaries under section 742.45 of the Revised Code shall not be considered "benefits" under division of property orders and child and spousal support orders since these payments are reimbursement of expenses incurred by such beneficiary.

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(Emer.), 02/22/2002, 03/14/2002 (Emer.), 05/31/2002,  
10/06/2003, 12/23/2004, 12/20/2006 (Emer.),  
03/19/2007, 05/17/2012, 01/01/2019 (Emer.),  
03/29/2019

742-9-15

**Calculation of penalties/interest.**

For purposes of applying the penalties provided for under sections 742.352 and 742.353 of the Revised Code, the first date of the penalties will begin on the date that immediately follows the applicable due date, as defined in the applicable statutory provisions, and the last day of the penalty shall be the date on which OP&F received the corrected report and/or payment, as more fully outlined in the governing administrative rules.

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3307:1-4-01

**Compensation includible in the determination of final average salary.**

The following criteria and procedures are established by the retirement board pursuant to section 3307.501 of the Revised Code.

(A) As used in section 3307.501 of the Revised Code and this rule, a percentage increase shall be considered to be generally applicable if:

- (1) It is paid by a school board or governing board, school district, or governing authority of a community school or a science, technology, engineering, and mathematics school pursuant to a teacher salary schedule with the same employer including performance based payments that are paid in accordance with uniform criteria applicable to all members employed by the employer without regard to supplemental or extended pay contracts; or
- (2) It is paid by a school board or governing board, school district, or governing authority of a community school or a science, technology, engineering, and mathematics school to an employee not paid under the teacher salary schedule up to the amount payable under the teacher salary schedule including performance based payments that are paid in accordance with uniform criteria applicable to all members employed by the employer to teachers with equivalent service and education without regard to supplemental or extended pay contracts; or
- (3) It is paid by a university or college as an average salary increase attributable to academic services as certified by an authorized representative of the university or college; or
- (4) It is paid by a school board or governing board, school district, or governing authority of a community school or a science, technology, engineering, and mathematics school that does not use a teacher salary schedule as an average salary increase as certified by an authorized representative of the employer.

(B) In determining the highest percentage increase in compensation under division (B)(1) of section 3307.501 of the Revised Code, increases in compensation from one fiscal year earnings to another for which a member has not performed full-time service as defined in paragraph (A)(1) of rule 3307:1-2-01 of the Administrative Code in either or both year(s) shall be the greater of:

- (1) The projected salary increase established by an actuary for the retirement board based on the member's ~~attained age~~ years of service credit at the beginning of the fiscal year used in calculating the member's final average salary, or

- (2) The percentage increase considered generally applicable to members employed by the employer.
- (C) Where the two highest years of compensation certified for an applicant for service retirement include a percentage increase otherwise excluded by division (B) of section 3307.501 of the Revised Code, the executive director of the retirement system or his or her designee may include all or part of such percentage increase in the calculation of final average salary, up to a maximum of seventy-five hundred dollars, if:
- (1) The increase is related to a diminution of compensation as the result of illness or incapacitation, provided that completion of contributions is not authorized under the terms of section 3307.77 of the Revised Code; or
  - (2) The executive director of the retirement system or his or her designee determines that other good cause exists for inclusion.
- (D) Where a percentage increase is excluded from compensation used to determine final average salary under the provisions of division (B) of section 3307.501 of the Revised Code and paragraph (A) or (B) of this rule, the applicant shall be given written notice of the right to an appeal pursuant to this paragraph, provided:
- (1) The maximum of seventy-five hundred dollars has not already been included under paragraph (C) of this rule.
  - (2) Requests for an appeal shall be made by the applicant in writing within thirty days of such notice.
  - (3) The applicant shall be afforded the opportunity to present written information explaining the arguments for making an exception to the statutory limitation and to appear before a review committee designated by the retirement board. The applicant shall be informed of the date the committee will review and consider the appeal. An applicant who has requested a personal appearance before the committee may for good cause request delay of consideration, provided that no prior request for delay has been granted.
  - (4) All information supporting an applicant's assertion that good cause exists for making an exception to the statutory limitation shall be received by the retirement system at least two weeks before the committee's scheduled review.
  - (5) After consideration of the information presented by the applicant, the committee shall submit its recommendation to the board.

- (E) In determining final average salary under division (C) of section 3307.501 of the Revised Code if disability benefits to a member began before August 1, 2015, the benefits beginning date shall be the effective date disability benefits were granted, provided that monthly benefits continue without any interruption in the monthly stream of benefits to the member pursuant to section 3307.57, 3307.58 or 3307.59 of the Revised Code or to a survivor of the member pursuant to section 3307.66 of the Revised Code.



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11/30/1989, 04/29/1991, 10/29/1991 (Emer.),  
01/27/1992, 07/01/2001 (Emer.), 09/17/2001,  
09/17/2002, 08/19/2004, 08/01/2005, 09/12/2009,  
02/15/2013 (Emer.), 05/02/2013, 05/07/2015,  
05/07/2020