

742-3-04

Disability benefit recipient's annual earnings statement.

- (A) Unless the board's physician certifies that a disability benefit recipient's disability is ongoing according to the terms of the governing board policy and the board waives the requirement that a recipient file an annual statement of earnings, a disability benefit recipient shall file an annual statement of earnings by September first of each year with the Ohio police and fire pension fund ("OP&F"). The statement must be on the form provided by OP&F. The section of the statement relating to employment, education, and earnings must be notarized. In addition, the disability benefit recipient must also provide any supporting documentation requested by OP&F.
- ~~(B)~~ The first annual statement shall be filed September 1, 1996.
- ~~(C)~~(B) OP&F shall send written notice to those recipients who have been granted waivers by the board within sixty days of the board's approval.
- ~~(D)~~(C) Once a disability benefit recipient has been granted a waiver from the requirement to file annual earnings statement by the board, the disability benefit recipient shall thereafter be relieved from filing an annual earnings statement, unless otherwise notified in writing by OP&F.
- ~~(E)~~(D) For those earning statements due on September 1, 1998, and every September first thereafter, the refusal of the benefit recipient to comply with paragraph (A) of this rule shall result in the suspension of disability benefits and any health care and prescription drug benefits selected by the disability benefit recipient upon sixty days prior written notice to the disability benefit recipient.
- (1) If the disability benefit recipient fails to file the past due annual earning statement(s) in proper form with OP&F within the aforementioned sixty day notice period, OP&F shall suspend the recipient's health care and prescription drug benefits selected by the disability benefit recipient, if any, effective on the first day of the month immediately following the expiration of such notice period.
- (2) In the event the disability benefit recipient files all of the past due earning statement(s) in proper form with OP&F after the aforementioned sixty day notice period, OP&F will reinstate the recipient's disability and health care benefits on the first day of the month immediately following OP&F's receipt of all past due annual earnings statements in proper form, subject to the terms of health care and prescription drug benefits selected by the disability benefit recipient, if any, and the recipient shall be entitled to retroactive coverage of disability and health care benefits during that time in which the benefits were suspended. In such event, the disability benefit recipient shall fully cooperate with OP&F on the coordination of claims filed for medical expenses incurred

during such suspension period. Notwithstanding the reinstatement of disability and health care benefits, OP&F shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of medical expense benefits, and OP&F shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension, and in such event, OP&F shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.

- (3) Notwithstanding the foregoing terms of this paragraph ~~(E)~~ of this rule, OP&F shall not suspend dental and vision benefits of such non-complying disability benefit recipient provided and for so long as the disability benefit recipient pays the monthly costs of such benefits in advance to OP&F within thirty days after OP&F sends an invoice to the disability benefit recipient.
- ~~(F)~~(E) If the disability benefit recipient files the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due (i.e. fifteen months after the original due date), OP&F will reinstate the recipient's disability benefits and the health care and prescription drug benefits selected by the disability benefit recipient, if any, subject to the terms of the health care plan sponsored by OP&F. In such event, the disability and health care and prescription drug benefits selected by the disability benefit recipient, if any, shall be paid retroactively and, in such event, the disability benefit recipient shall fully cooperate with OP&F on the coordination of claims filed for medical expenses incurred during such suspension period. Notwithstanding the reinstatement of disability and health care and prescription drug benefits selected by the disability benefit recipient, if any, OP&F shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of health care and prescription drug benefits selected by the disability benefit recipient, if any, OP&F shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension. In such event, OP&F shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.
- ~~(G)~~(F) If the disability benefit recipient has not filed the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due, then the disability benefits shall be forfeited in accordance with the terms of division (D) of section 742.40 of the Revised Code and the health care and prescription drug benefits selected by the disability benefit recipient, if any, shall be forfeited in accordance with section 742.45 of the Revised Code, with such forfeiture

being effective as of the date of the original suspension, as referenced in a writing provided to the recipient from OP&F.

~~(H)~~(G) For purposes of determining whether the recipient has refused to comply with the provisions of division (D) of section 742.40 of the Revised Code and this rule, OP&F may conclusively rely upon OP&F's books and records.

~~(H)~~(H) All notices to the disability benefit recipient provided for under this rule 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 OP&F, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to OP&F shall be addressed at its principal place of business.

~~(H)~~(I) For purposes of this rule, "Disability Benefit Recipient" shall mean the member of OP&F who is receiving a disability benefit pursuant to division (C)(2), (C)(3), (C)(4), or (C)(5) of former section 742.37 of the Revised Code or section 742.38 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 1/5/2018

Certification

Date

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09/16/1998 (Emer.), 12/10/1998, 07/17/2004,
02/04/2013

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 ~~on or after April 11, 2005~~, 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 retirant, 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 retirant, 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 retirants.
 - (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, ~~which is currently eight and a quarter per cent annually.~~
 - ~~(8) This division documents the process since January 1, 2002.~~
- (G) For those reemployed retirants who have not attained the age of sixty, the calculation criteria for the reemployed retirant 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 retirant or other system retirant 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 retirant's surviving spouse, or if there is no surviving spouse, the retirant'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 retirant's date of death.

- (I) A reemployed retirant 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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Certification

Date

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742-3-11

Decision deadlines/non-COLA benefit.

- (A) A member of the fund who is eligible to make the election under division (D) of section 742.3716 of the Revised Code shall be given notice of such choice. If a member of the fund who is eligible to make such election fails to make a decision within sixty days of being notified of the exact pension or benefit amount payable, then such member shall be deemed conclusively not to have exercised the election under division (D) of section 742.3716 of the Revised Code and the pension or benefit shall be paid accordingly.
- (B) Notwithstanding rule 742-3-07 of the Administrative Code, a member of the fund who has been notified in writing of the actuarial equivalent of the member's retirement allowance shall have sixty days to return to the fund completed annuity agreement forms or to request a modified payment plan. If the member fails to file completed annuity agreement forms or a written request for a modified payment plan within the aforesaid sixty day period, then such member shall be deemed conclusively to have consented to the optional plan selected.
- (C) A member of the fund is deemed to consent to the deduction of unpaid employee contributions required under section 742.31 of the Revised Code from any pension or benefit payable under section 742.37 or 742.39 of the Revised Code.

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CERTIFIED ELECTRONICALLY

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742-3-20

Statutory termination of disability benefits.

For purposes of division (C)(3) of section 742.40 of the Revised Code, Ohio police and fire pension fund ("OP&F") shall consider an OP&F member to be "employed as a police officer or firefighter" if one of the following applies:

(A) The person is appointed, commissioned, compensated, designated, employed, engaged, volunteering, or otherwise serving as one of the following:

- (1) A sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force established under division (D) of section 3735.31 of the Revised Code, or township constable or a similar job position outside the state of Ohio;
- (2) A railroad company police officer governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (3) A person engaged in the enforcement of Chapter 5743. of the Revised Code on behalf of the department of taxation and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code or a similar job position outside the state of Ohio;
- (4) An undercover drug agent or a similar job position outside the state of Ohio;
- (5) A department of public safety enforcement agent governed by section 5502.14 of the Revised Code or a similar job position outside the state of Ohio;
- (6) A natural resources law enforcement staff officer in the department of natural resources governed by section 1501.013, ~~a park officer governed by section 1541.10, a forest officer governed by section 1503.29, a preserve officer governed by section 1517.10, a wildlife officer governed by section 1531.13, or a state watercraft officer governed by section 1547.521~~ of the Revised Code or a similar job position outside the state of Ohio;
- (7) A forest-fire investigator in the department of natural resources governed by section 1503.09 of the Revised Code or a similar job position outside the state of Ohio;
- (8) A natural resources officer on the department of natural resources governed by section 1501.64 of the Revised Code or a similar job position outside the state of Ohio;

- (9) A wildlife officer in the department of natural resources governed by section 1531.13 or a similar job position outside the state of Ohio;
- ~~(7)~~(10) A park district law enforcement officer governed by section 511.232 or 1545.13 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(8)~~(11) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(9)~~(12) A member of a hospital police or security department governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(10)~~(13) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(11)~~(14) A member of a qualified nonprofit corporation police department established by section 1702.80 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(12)~~(15) A state university law enforcement officer governed by section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- ~~(13)~~(16) A special police officer in the department of mental health governed by section ~~5119.14~~5119.08 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(14)~~(17) A special police officer in the department of mental retardation and developmental disabilities governed by section 5123.13 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(15)~~(18) A member of a campus police department established under section 1713.50 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(16)~~(19) A regional transit authority police officer governed by division (Y) of section 306.35 of the Revised Code or a similar job position outside the state of Ohio;

- ~~(17)~~(20) An investigator of the auditor of state governed by section 117.091 of the Revised Code who is engaged in the enforcement of Chapter 117. of the Revised Code or a similar job position outside the state of Ohio;
- ~~(18)~~(21) A special police officer serving on state property pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- ~~(19)~~(22) A port authority special police officer governed by section 4582.04 or 4582.28 of the Revised Code or a person serving as a port authority special police officer on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- ~~(20)~~(23) A municipal corporation special police officer who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is serving at a municipal airport or other municipal air navigation facility that is governed by aviation security rules of the transportation security administration of the United States department of transportation and required by federal laws and regulations to be under a security program or a similar job position outside the state of Ohio;
- ~~(21)~~(24) A PERS law enforcement officer, as defined in section 145.01 of the Revised Code or a similar job position outside the state of Ohio; or
- ~~(22)~~(25) A bailiff or deputy bailiff of a court of record in this state who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code or a similar job position outside the state of Ohio;
- ~~(23)~~(26) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;
- ~~(24)~~(27) An employee of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the

Revised Code and who has received the training described in division (B)(1) of that section;

~~(25)~~(28) A federal protective service officer or a federal marshal, including, but not limited to, a court security officer hired by the U.S. marshals service;

~~(26)~~(29) A gaming agent employed under section 3772.03 of the Revised Code or a similar job position outside the state of Ohio.

(B) The person is a "member of the police department", as such term is defined in division (A)(2) of section 742.01 of the Revised Code or such corresponding statutory provision, whether in Ohio or a similar job position outside the state of Ohio or is serving as a volunteer to a "police department," as such term is defined in division (A)(1) of section 742.01 of the Revised Code or such corresponding statutory provision;
or

(C) The person is classified as a firefighter who is a "member of a fire department", as such term is defined in division (B)(2) of section 742.01 of the Revised Code or such corresponding statutory provision, whether in Ohio or a similar job position outside the state of Ohio or is serving as a volunteer to a "fire department," as such term is defined in division (B)(1) of section 742.01 of the Revised Code or such corresponding statutory provision.

(D)

For any new position added to paragraph (A) of this rule, OP&F shall give ninety days written notice of the change to all disability benefit recipients and allow those recipients to have ninety days to terminate the position not previously covered under this rule or be subject to the statutory requirement relating to the termination of disability benefits, as set forth in division (C)(3) of section 742.40 of the Revised Code.

(E) Process for termination of disability benefits.

For any termination of disability benefits under section 742.40 of the Revised Code, staff shall present the termination for review and consideration by the disability committee, who shall make a written recommendation to the board of trustees based upon the applicable criteria. The applicable disability benefit recipient shall be notified of the board's decision within thirty days after the board's action and such notice shall be sent by certified mail, return receipt requested. The disability benefit recipient shall also be notified of the right to appeal the termination of disability benefits and the right to convert the disability benefits to a service retirement pension if the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or

(C)(4) of section 742.37 of the Revised Code are met and an application for service retirement is filed with OP&F.

(F) Appeal of termination of disability benefits.

- (1) Any disability benefit recipient aggrieved by an action of the board with respect to the termination of the disability benefits in accordance with division (C)(3) of section 742.40 of the Revised Code must file a written notice of appeal with OP&F in the form provided by OP&F within ninety days of the notice of the board's decision to terminate the disability benefits. 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.
- (2) Within sixty days of the notice of the board's decision to terminate the disability benefits, the aggrieved disability benefit recipient ("appellant") shall file with OP&F all materials which he or she desires to submit in support of the appeal. Failure to submit supporting materials or to request an extension of time within which to submit the supporting materials will be sufficient cause for the director of member services to dismiss the appeal, provided OP&F gives the appellant prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the appellant 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 may, for good cause shown, grant the appellant an extension of sixty days within which to file supporting materials.
- (3) Upon receipt of the supporting materials, OP&F 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 held within sixty days of the receipt of the supporting documentation by OP&F; provided, however, that any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. In no event shall a hearing be postponed more than three times, and in no event shall the postponements, in the aggregate, exceed one year. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A tape recording of the hearing will be made to provide the board with a record for further review. Such tape recording of the hearing shall be available to the appellant and to those individuals who are authorized by the appellant to receive such information, with such authorization in the form required by OP&F.
- (4) Following the hearing on appeal, the board may choose to:

- (a) Affirm the decision to terminate disability benefits;
- (b) Reverse the decision to terminate disability benefits;
- (c) Postpone a decision pending additional documentation.

The board's decision on appeal shall be the final determination on the statutory termination of disability benefits.

- (5) The applicant shall be advised of the board's action under paragraph (F)(4) of this rule within thirty days after the board's decision and such notice shall be sent by certified mail, return receipt requested.
- (G) For purposes of recovering overpaid disability benefits, OP&F shall collect those benefits from the later of April 1, 2004 or the date of the person's acceptance of employment that results in the statutory termination of disability benefits, which will apply to any termination of disability benefits under section 742.40 of the Revised Code and this rule prior to the effective date of this rule.
- (H) For disability benefit recipients who are terminated in accordance with division (C) (3) of section 742.40 of the Revised Code and this rule, who cannot convert the benefits to a service retirement pension, and who have not recovered all contributions received by OP&F that are paid by or on behalf of such person, OP&F shall offset the remaining contributions against any overpayment due OP&F in accordance with the provisions of this rule.
- (I) For any overpayments due OP&F as a result of the termination of benefits in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, OP&F shall require the member to sign a promissory note, which provides for equal monthly payments to be paid to OP&F over a period not to exceed five years, with interest paid at the current actuarial rate of interest. For any person who refuses to sign such promissory note, OP&F will seek to recover the amounts due by exercising all rights available by law.
- (J) In the event the payments required under paragraphs (H) and (I) of this rule exceed the limits provided for in the consumer credit protection act, the payments will be modified in order to comply with such limits. Payments may also be modified upon a showing of a financial hardship and in such amount as determined by the executive director.

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742-3-21

Forfeiture and termination of disability benefits.

In the event of any forfeiture and termination of disability benefits in accordance with division (C) or (D) of section 742.40 of the Revised Code, Ohio police and fire pension fund (OP&F) shall convert the person's disability benefits to a service retirement pension if the person meets the age and service eligibility requirements under division (C)(1), (C)(2), ~~or (C)(3),~~ or (C)(4) of section 742.37 of the Revised Code, upon the person filing an application for service pension with OP&F. The effective date of the service pension shall be the day immediately following the effective date of the person's termination and forfeiture of disability benefits for purposes of benefits paid under division (C)(1), ~~or (C)(3),~~ or (C)(4) of section 742.37 of the Revised Code or the day on which the person meets the eligibility requirements under division (C)(2) of section 742.37 of the Revised Code.

For purposes of determining if the person meets the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code, OP&F shall only include contributing and purchased service credit. OP&F shall notify the person of any available service credit that may be purchased in order to meet the eligibility requirements. Such notice shall provide that the eligible service credit must be purchased within ninety days of the date of the notice and if this person does not complete the purchase with OP&F within such time period, the purchase will not be permitted.

If the person does not meet or will not meet the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code, the person will be entitled to a refund of the person's contributions consistent with the provisions of division (G) of section 742.37 of the Revised Code.

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Accrual of member's contributions.

- (A) For purposes of accruing a DROP ~~participant's~~Participant's contributions in accordance with the provisions of division (B)(1)(a), (B)(1)(b), (B)(2)(a), or (B)(2)(b) of section 742.443 of the Revised Code, the term "thereafter" shall mean the end of the payroll reporting period reported to OP&F in accordance with applicable statutory provisions prior to the anniversary date referenced in each subsection, as more fully illustrated in the following examples.

For example, if the member files his/her ~~election~~Election with OP&F on January 3, 2003, but the end of the next payroll period reported to OP&F is January 23, 2003, the ~~effective~~Effective date~~date~~Date of the DROP ~~election~~Election is January 24, 2003, as provided for in this rule, even though this payroll will be included in the February payroll that is reported to OP&F in March 2003. In such case, beginning with the January 2005 payroll reported to OP&F, seventy-five per cent of the DROP ~~participant's~~Participant's contributions would accrue to the DROP participant's benefit until the next change in contributions under section 742.443 of the Revised Code. Using this same example, if the last full payroll reporting period for 2005 falls on January 20, 2005, then beginning with the January 21, 2006 payroll period reported to OP&F, one hundred per cent of the DROP Participant's contributions would accrue to his/her benefit. For members whose ~~election~~Election to participate in DROP is effective after July 1, 2013, the percentage rates for the accrual of contributions shall be the following, which are set forth in division (B)(2) of section 742.443 of the Revised Code: fifty per cent for years one through three; seventy-five per cent for years four through six; and one hundred per cent for years seven and eight.

- (B) 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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Certification

Date

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Rule Amplifies: 742.443
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 02/04/2013

742-4-08

COLA effective dates for DROP participants.

(A) For purposes of determining the effective date of a cost-of-living allowance ("COLA") set forth in section 742.3716 of the Revised Code for DROP participant, the following shall apply:

- (1) A member whose ~~election~~Election to participate in DROP is effective on or before July 1, 2013 and who is fifty-five years of age and already receiving a COLA will continue to receive it at three per cent per annum.
- (2) A member whose ~~election~~Election to participate in DROP is effective on or before July 1, 2013 and who is not yet receiving a COLA as of July 1, 2013 will not receive a COLA until he or she is fifty-five years of age and has participated in the plan for one year. The payment of a COLA will commence on the member's DROP ~~effective~~Effective date~~Date~~ after the member has attained the age of fifty-five and a prorated COLA will be paid for the period from the member's fifty-fifth birthday to the member's DROP ~~effective~~Effective date~~Date~~. The member's DROP ~~effective~~Effective date~~Date~~ will remain the effective date for all future annual COLAs.
- (3) For a member whose ~~election~~Election to participate in DROP is effective on or before July 1, 2013 and who has been receiving an annual COLA but is not yet fifty-five years of age by July 1, 2013, the payment of additional COLAs shall be discontinued until the member has attained the age of fifty-five. The payment of COLAs will resume on the member's ~~DROP effective date after the member has attained the age of fifty-five~~fifty-fifth birthday and a prorated COLA will be paid for the period from the member's fifty-fifth birthday to the member's DROP ~~effective~~Effective date~~Date~~. The member's DROP ~~effective~~Effective date~~Date~~ will remain the effective date for all future annual COLAs.
- (4) For a member whose ~~election~~Election to participate in DROP is effective after July 1, 2013, no COLAs shall be added to the member's DROP accrual while the member is participating in DROP pursuant to section 742.3716 of the Revised Code.

(B) 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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Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 02/04/2013

742-4-13

Impact of military leave.

- (A) This rule shall apply to ~~members~~ a member who ~~are~~ is a DROP ~~participants~~ Participant, called into active military service, and who ~~are~~ is granted service credit for the time period during which ~~they were~~ the member was called into active military service while a DROP ~~participant~~ Participant, pursuant to section 742.521 of the Revised Code.
- (B) In the event the member is on active military service at the time of ~~his/her effective date~~ the member's Effective Date into DROP, OP&F shall credit the member's contributions required under division (B)(1) or (B)(2) of section 742.443 of the Revised Code, in accordance with the provisions of paragraph (D) of this rule and shall recalculate the service credit at the time of the ~~DROP participant's effective date~~ member's Effective Date and corresponding ~~DROP benefits~~ DROP Benefit if and when the service credit is granted in accordance with section 742.521 of the Revised Code.
- (C) In cases where the member is called into active military service after ~~his/her effective date~~ the member's Effective Date into DROP, OP&F shall credit the member's contributions required under division (B)(1) or (B)(2) of section 742.443 of the Revised Code, in accordance with the provisions of paragraph (D) of this rule.
- (D) In determining the member's contributions under paragraphs (B) and (C) of this rule, as the case may be, OP&F shall determine such contributions based on the contributions allocated for the member's benefit based on "salary" reported by the member's employer during that time period during which the DROP ~~participant~~ Participant was in active military service, which is based on the rate the employee would have received but for the period of military service, including any pay raises.
- (E) All determinations of "salary" shall be consistent with the provisions of division (L) of section 742.01 of the Revised Code and rules 742-3-02 and ~~742-4-17~~ 742-4-06 of the Administrative Code (~~"Calculation of DROP Benefits"~~).
- (F) The amount provided for in paragraph (D) of this rule shall only be included for crediting the member's contributions according to division (B)(1) or (B)(2) of section 742.443 of the Revised Code if the member pays to OP&F the difference between the member contributions paid by ~~his/her~~ the member's employer and the actual member contributions due within three times the member's period of uniformed service, but no more than five years, which shall start on the date of the DROP ~~participant's~~ Participant's reemployment. All amounts shall be paid at no interest to the member.
- (G) This rule shall be subject to the provisions of division (C) of section 742.444 and section 742.445 of the Revised Code.

(H) 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: 742.444
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01/07/2013 (Emer.), 02/04/2013

742-5-11

Definition of concurrent service.

For purposes of division (G) of section 742.21 of the Revised Code, the word "concurrent" shall mean service credit earned in another retirement system during the same time period in which the police and fire pension fund has granted or will grant service credit to such member.

Five Year Review (FYR) Dates: 11/21/2017 and 11/21/2022

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11/21/2017

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Rule Amplifies:	742.21
Prior Effective Dates:	12/06/2002, 12/20/2007

742-9-18

Overpayment of contributions by employer.

- (A) For purposes of this rule, “member contributions” shall mean the employee contributions required by sections 742.31 and 742.32 of the Revised Code. “Employer contributions” shall mean the police officer employers’ contribution and firefighter employers’ contribution required by sections 742.33, 742.34, and 742.35 of the Revised Code.
- (B) OP&F will not issue a refund of overpaid member contributions that is less than one hundred dollars per member or payroll. Rather, a credit will be applied to the employer’s account for a balance due in the future. An overpayment of member contributions that is one hundred dollars or more may be refunded to the employer, provided that the employer makes a written request for the overpayment. Otherwise, a credit will be applied to the employer’s account for a balance due in the future.
- (C) Except as provided in this rule, OP&F will not issue a refund of overpaid employer contributions resulting from a correction or adjustment to a member or payroll. Rather, a credit will be applied to the employer’s account for a balance due in the future. A refund may be issued if an employer duplicates an entire monthly payment.
- (D) OP&F shall annually review balances and communicate with employers.

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Rule Amplifies:	742.31, 742.32, 742.33, 742.34, 742.35

742-16-02

Board of trustees.

- (A) For purposes of sections 742.38 and 742.63 of the Revised Code, an employee member of the board of trustees shall be considered to be in the performance of his or her official duties as a member of a police or fire department while engaged in the performance of any of his or her official duties as a member of the board of trustees or in the conduct of any business connected with ~~the fund~~Ohio police and fire pension fund or in giving attention to any matters related to the administration or business of ~~the fund~~OP&F.
- (B) For purposes of section 742.63 of the Revised Code, an employee member of the board of trustees shall be considered to be in the line of duty as a fire fighter or police officer while engaged in the performance of any of his or her official duties as a member of the board of trustees or in the conduct of any business connected with ~~the fund~~OP&F or in giving attention to any matters related to the administration or business of ~~the fund~~OP&F.

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Rule Amplifies: 742.38, 742.63
Prior Effective Dates: 11/24/1997, 02/04/2013

742-19-01

Administration of public safety officers death benefit fund.

(A) Subject to the terms of division (J) of section 742.63 of the Revised Code, benefits from the public safety officers death benefit fund shall be paid only to eligible surviving spouses and children or dependent parents of persons listed in section 742.63 of the Revised Code provided the member is "killed in the line of duty," as such term is defined in division (A)(12) of section 742.63 of the Revised Code.

(B) Application and determination of benefits.

(1) Application for death fund benefits shall be made on a form provided by the Ohio police and fire pension fund ("OP&F") ~~office~~. Such application shall include:

(a) An agreement by the applicant to be responsible for reporting any person in the family unit who becomes ineligible for benefits due to marriage or age limitations.

(b) A statement agreeing to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45 of the Revised Code, division (D), (E) or (F) of section 742.37 of the Revised Code, or division (A)(3), (A)(4), (A)(5), or (A)(6), ~~or (A)(7)~~ of section 5505.17 of the Revised Code.

(2) Applications shall be made for the family unit by the surviving spouse. In cases where no eligible spouse exists, and only minor children are eligible, the application shall be filed by the legal guardian. ~~In cases where a student between age eighteen and twenty-two is eligible, an application shall be filed by the student and countersigned by the parent or guardian.~~

(3) Documentation to be provided by the applicant shall include: a copy of the marriage record, a copy of the death certificate, a birth certificate for each child, and evidence that death was a result of performance of official duties. A guardian who is the applicant shall provide supporting court documentation showing the person's appointment as guardian. Department certification and other documentation may be required by OP&F prior to determination of eligibility.

(4) OP&F's board of trustees shall determine a survivor's eligibility for benefits provided for in section 742.63 of the Revised Code and in the event of a denial of benefits, the survivor shall have the right to submit up to two requests for reconsideration provided, however, that new evidence is submitted with such request for reconsideration. OP&F shall review the request for reconsideration in the same manner as an initial application for benefits, subject to the limitations stated in this division.

- (5) If an initial application for death fund benefits or request for reconsideration has been filed with OP&F, but the required supporting documentation has not been submitted or the applicant has not taken any action to prosecute his or her claims within six months of the filing with OP&F, the director of member services shall have the authority to dismiss the initial application or request for reconsideration for failure to prosecute the claim. ~~provided that~~In order to dismiss a claim for failure to prosecute, OP&F ~~gives~~ must have given ninety days prior written notice to the applicant of the need to file the required supporting documentation and the applicant ~~fails~~failed to file the necessary documentation with OP&F before the expiration of such ninety day time period.
- (C) Cause of death of member. For purposes of section 742.63 of the Revised Code, survivors shall be eligible for death fund benefits if the member's death is under the following circumstances:
- (1) Injury or disease sustained in the line of duty.
 - (2) Heart disease, with fatal attack while in the line of duty.
 - (3) Heart disease or other fatal injury or illness while off duty, if the fatal attack or other fatal injury or illness was caused while in the line of duty.

For purposes of this paragraph, "in the line of duty" shall mean the official duties provided by the employer, including any duties arising out of agreements that the employer may have entered into for the performance of services on behalf of other Ohio villages, cities, or municipalities, or federal agencies or as otherwise imposed by law.

- (D) Determination of benefit amount. The term "full monthly salary" as used in division (A) (11) of section 742.63 of the Revised Code shall mean one-twelfth of the base annual ordinance, statute, or contract salary authorized by the employer for the position and salary level attained by the member at the time of death; such position shall be the basis for any future benefit adjustments. Adjustments in benefits shall be made in accordance with the base salary ordinance, statute, or contract of the employer where the decedent was employed.

- (E) Method of payment and commencement of payments.

- (1) Where benefits are divided among family members, one ~~warrant~~payment shall be issued to the spouse and one for each minor child.
 - ~~(a) A warrant issued for a child under eighteen years of age or for a disabled child shall be made payable to the parent or guardian.~~

~~(b) A warrant issued to a student eighteen years of age or older may be made payable to the parent or the student, as the situation dictates.~~

(2) A payment issued for a child under eighteen years of age or for a disabled child shall be made payable to the child's parent or guardian.

~~(2)~~(3) Benefit payments to eligible survivors shall be effective the first day of the month following the month of death.

~~(3)~~(4) Payments may not be made prior to board approval.

(F) Termination of death fund benefits.

(1) All benefits, except those provided for in division (E), (F), (G) or (H)(1) of section 742.63 of the Revised Code, for a surviving family unit shall cease at the close of the calendar month during which the member would have been eligible to receive benefits under his or her retirement plan, had he or she lived.

(2) When death fund benefits are terminated in accordance with the provisions of division (H) of section 742.63 of the Revised Code, the fund shall reallocate the death fund benefits in accordance with the terms of the ruling issued in *Roseman v. Firemen's and Policemen's Death Benefit Fund*, 613 N.E.2d 574 (1993).

(G) Definition of "child" and "children." As used in section 742.63 of the Revised Code, "child" and "children" mean:

(1) Any natural child or children born to a marriage of the deceased member, except a child or children adopted by another person prior to the member's death.

(2) Any child or children legally adopted by the member prior to his or her death and any child or children subsequently adopted by the surviving spouse of a member when the member's intention to adopt the child or children was clearly manifested to the satisfaction of the board.

(3) Any natural child or children born outside a marriage of the deceased member when the parenthood of the member can be established to the satisfaction of OP&F's board of trustees.

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11/23/2001, 02/20/2002 (Emer.), 05/09/2002,
05/17/2007, 12/20/2007, 02/04/2013

742-20-01

Recovery of overpaid funds.

- (A) As provided by section 742.64 of the Revised Code, if a person is paid any benefit or payment by Ohio police and fire pension fund (OP&F) to which the person is not entitled, the benefits shall be repaid to OP&F by the person and/or the person's beneficiary, which shall include the person's estate. If the person or the person's beneficiary or estate fails to make such repayment, OP&F shall withhold the amount due from any payment due the person or the person's beneficiary or estate under this chapter or may collect the amount in any other manner provided by law.
- (B) This rule is in addition to the payment provisions outlined in rule 742-3-08, 742-3-20 or 742-7-09 of the Administrative Code.

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02/04/2013

742-21-01

Form of division of property orders.

- (A) The division of property orders to be used by the courts for orders described in section 3105.81 of the Revised Code shall be made on the form prescribed by the appendix to this rule, ~~which form has been created by the state retirement systems, the Ohio state bar association and the Ohio domestic relations judges association. For division of property orders received by Ohio police and fire pension fund ("OP&F") prior to June 30, 2014, OP&F will accept either the form prescribed by the appendix under the prior version of this rule that was effective on January 1, 2010, or the form prescribed by the appendix to this rule. From and after June 30, 2014, OP&F will only accept the division of property order in the form prescribed by the appendix to this rule.~~
- (B) Subsequent to the time Ohio police and fire pension fund (OP&F) receives a division of property order, an alternate payee shall provide information required on the form prescribed by the appendix to this rule. An alternate payee shall notify OP&F in writing of any change in the required information contained in the form.

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01/01/2010, 01/01/2014