

Rules

September 20, 2018

OP&F

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742-2-01

Board of trustee election rules.

- (A) Conduct of trustee elections. Ohio police ~~and~~ fire pension fund ("OP&F") shall conduct elections in accordance with Chapter 742. of the Revised Code and this rule.
- (B) Notice of election. For an election of the OP&F firefighter or police officer member of the board of trustees, a "notice of election" will be sent to each police or fire department in the state of Ohio having members in OP&F, as the case may be, not later than the first Monday in February of the year of the election. For any election of the OP&F retirant member of the board of trustees, a "notice of election" will be sent to each eligible retirant member through appropriate means not later than the first Monday in February of the year of the election.
- (C) Nominating petitions.
- (1) Nominating petitions must be in a form approved by the board of trustees. Other petitions substantially conforming to board requirements may, in the board's discretion, be accepted.
 - (2) Nomination petitions may be obtained at the offices of OP&F during normal business hours beginning on the first Monday in February of the year of the election. As an added courtesy, the nominating petitions will also be available on www.op-f.org.
 - (3) Petitions secured from OP&F or nominating petitions drawn up by individuals or entities other than OP&F must be signed on or after the first Monday in February of the year of the election.
 - (a) For an "employee member," the petition must be signed by at least one hundred active members of the class that is the subject of the election, with at least twenty signers from each of at least five counties of the state (i.e. county of residence).
 - (b) For a "retirant member," the petition must be signed by at least fifty retired members of the class that is the subject of the election, with at least ten signers from each of at least five counties of the state (i.e. county of residence).
 - (4) Nominating petitions must be filed in the office of OP&F not later than four p.m. on the first Monday in April of the year of the election.
 - (5) Persons filing nominating petitions who wish to submit a black and white photograph of himself or herself for reproduction in the ballot must deliver such photograph to the offices of OP&F not later than the deadline referenced

in paragraph (C)(4) of this rule. OP&F and the independent elections administrator chosen by OP&F (~~the "elections administrator"~~) reserve the right to crop the photograph in their sole and absolute discretion.

- (6) Petition signatures and candidate eligibility shall be verified based on OP&F's records. Signatures that cannot be conclusively verified shall not be counted.
 - (7) All petitions shall be certified by the independent elections administrator under contract with OP&F or by the office of the Ohio secretary of state and shall be subject to an audit by the secretary of state. In the event that there is a discrepancy between the certification by the ~~officer of the retirement system~~ independent elections administrator and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and final.
 - (8) In case of a contested election, the names of the qualified candidates shall be placed on the ballot for election.
- (D) Certification on eligibility. In addition to filing the required nominating petitions, all candidates must file a certification of eligibility in the form approved by the board of trustees that confirms that the person is not ineligible to run for election to the board of trustees for any of the reasons outlined in section 742.046 of the Revised Code. This certificate of eligibility must be filed in the office of OP&F not later than four p.m. on the first Monday of April of the year of the election.
- (E) Ballots.
- (1) The independent elections administrator will prepare and mail out the ballots containing the names and photographs of candidates who filed the required nominating petitions and certificate of eligibility, as certified by the independent elections administrator or the officer of the secretary of state, as the case may be.
 - (2) Ballots will contain the names of the candidates and the position of the names on such ballots will be rotated so that each candidate's name appears in the top position an equal number of times to the extent possible. The reverse side of each ballot will contain specific instructions on how a vote should be cast. If the instructions are not explicitly followed, the ballot will be void.
 - (3) Ballots for the election shall be sent to each member of OP&F who is eligible to vote in this election to the address of such eligible member. For an election of the "employee member," the deadline is as of the close of business on the first Monday in March of the year of the election provided the person is not a retiree.

on the first Monday in April of the year of the election, as shown in OP&F's records. For an election of the "retirant member," the deadline is as of the close of business on the first Monday in April of the year of the election, as shown in OP&F's records. In furtherance thereof, OP&F will determine the person's eligibility status as a "member" of OP&F, based upon the payroll that is posted to OP&F's books and records, after having been filed in accordance with the terms of section 742.32 of the Revised Code (~~report of employee deductions; transmission of warrants or checks~~) and rule 742-5-03 of the Administrative Code and approved by OP&F.

- (4) Ballots are to be returned directly to the independent elections administrator and must be received not later than four p.m. on the third Tuesday in May of the year of the election. Ballots received later than that date will not be counted, but if OP&F receives a ballot prior to this deadline, the ballot will be sent to the elections administrator.
- (5) Prior to the ballots being mailed to each eligible OP&F member, OP&F may, as a courtesy, send a notice to the member on the need to send in any change of address in order to vote in the election, which OP&F cannot assure will be delivered to that person if the person has failed to maintain his/her current address with OP&F. The elections administrator will not forward any undeliverable ballot to a new address.
- (6) The independent elections administrator will make the final determination of the validity of all ballots, count the ballots and announce and certify the results of the election to the ~~elections committee and/or the~~ board of trustees not later than ~~four p.m. on the last Tuesday~~ Wednesday in May following the date that the ballots were mailed to eligible members.

(F) Voting.

- (1) The election may be conducted by paper ballots, through electronic or other alternate methods, such as telephone voting, or a combination thereof, as determined by the board of trustees from time to time.
 - (2) The first vote cast will be the controlling vote.
 - (3) The counting of the ballots shall be conducted by an independent elections administrator or the secretary of state, as the case may be, and may be subject to additional rules that are established by the independent elections administrator.
- (G) Uncontested election. ~~In~~ As authorized by section 742.041 of the Revised Code, in the event of an uncontested election for a particular position for either the "employee

member" or the "retirant member," no ballots will be mailed and the board will declare the sole candidate of that position as the winner of OP&F's board of trustees for a term of four years commencing on the first Monday in June of the year of the election ~~and ending four years later on the date that immediately precedes the first Monday in June.~~

(H) Vacancies.

- (1) If a vacancy occurs in the term of an employee member or retirant member of the board, the board of trustees shall declare the seat vacant and establish a schedule to nominate, interview and select a successor.
- (2) Candidates shall qualify under the same eligibility requirements as the predecessor in office.
- (3) The names of qualified candidates shall be certified by the retirement system and shall be subject to review and audit by the secretary of state.
- (4) The independent elections administrator or the secretary of state shall certify the results of any election conducted under the terms of section 742.05 of the Revised Code and this paragraph.
- (5) All documents regarding the filling of the vacancy, including the resumes and forms required by the retirement system shall be made available to any person upon request.

Effective:

Five Year Review (FYR) Dates: 5/31/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.045, 742.10
Rule Amplifies: 742.045
Prior Effective Dates: 04/21/2005, 12/27/2007 (Emer.), 04/03/2008

742-3-02

Definition and usage of terminal pay and salary in benefit and pension calculations.

- (A) For benefit calculation purposes, all payments made by an employer to an employee shall be reported to and considered by the Ohio police and fire pension fund ("OP&F") according to the definitions contained in section 742.01 of the Revised Code and this rule.
- (B) "Terminal pay" includes, but is not limited to, the specific payments defined in this rule, subject to the other provisions of this rule.
- (1) "Vacation or furlough pay" refers to sums paid to employees for periods during which they do not work, pursuant to normal employment arrangement. It also includes additional compensation paid to employees for foregoing vacation.
 - (2) "Sick leave" represents amounts paid directly by employers to employees for periods during which they do not work due to personal injury or sickness.
 - (3) "Personal leave" is paid leave other than vacation or sick leave. If its usage results in debiting another paid leave account for the employee, then it is not considered to be personal days, but is defined by the form of payment from the debited account.
 - (4) "Compensatory time" results from employees being credited for hours worked in excess of the employers' standard workday.
 - (5) "Holiday compensation" is payment received by an employee for a day that is customarily observed in the community in celebration of a historical or religious occasion, regardless of whether or not the employee works that holiday.
 - (6) "Longevity" is a regular, recurring payment received by an employee based on a years-of-service schedule.
 - (7) "Overtime" is payment received by an employee for duty-related work performed in excess of a standard workweek. For purposes of divisions (K)(3) and (L)(1) of section 742.01 of the Revised Code, the payroll period shall be determined by the employer's practice for reporting overtime, as documented by OP&F's books and records, but in no event shall the employer report overtime to OP&F more than sixty days after the date on which the overtime is worked.
 - (8) "Paid leave" is compensated leave received by an employee which is a combination of vacation and sick leave.
 - (9) "Combined leave" is paid leave received by an employee which is a combination of any leave described in paragraph (B) of this rule.

- (10) "Hazard pay" is a regular payment received by an employee for employment in a high-risk occupation.
- (11) "Stress pay" is a regular payment received by an employee to compensate for employment in a stressful occupation.
- (12) "Premium pay" is payment received by an employee that is between his regular rate of pay and his overtime rate of pay.
- (13) A "Kelly Day" is compensation paid to a member of OP&F which is not vacation, sick leave, or personal leave for a continuous period of off duty time for the purpose of reducing the hours worked in a week as specified by contract.

(C) Use of terminal pay in pension/benefit calculation

- (1) Cost-of-living allowance (COLA) method: For each person whose effective date of retirement falls after July 24, 1986 who has not made an election under division (B) of section 742.3716 of the Revised Code to forego possible cost-of-living allowances in exchange for receiving a pension or benefit in which "terminal pay" has been used shall have his/her pension calculated under the terms outlined in this paragraph.
 - (a) An employee's receipt of cash for sick leave, personal leave, compensatory time, paid leave, vacation, and similar payments shall not be used in the calculation of pension and benefits, regardless of the COLA or non-COLA election.
 - (b) Holidays and longevity may be used in the calculation provided that payment occurs within one year of when it is earned, subject to the following limitation: in no event shall floating holidays and personal days/leave be included in the calculation, even if these items are included as part of the holiday and longevity pay provided for under an employee's contract.
 - (c) Subject to the provisions of paragraph (B)(7) of this rule, overtime must be used in the calculation if it is paid during the pay period in which it is earned or the pay period not later than sixty days after the overtime is earned.
 - (d) Hazard pay, stress pay, and similar special payments may be used in the calculation if paid within one year of the date it is earned.

- (e) Combined leave shall be divided into its individual components, and each component will be treated as a separate leave item for calculation purposes.
 - (f) To be used in the calculation, a "Kelly Day" must be worked and the compensation for such worked "Kelly Day" must be paid in the pay period earned or the pay period immediately following.
- (2) Non-cost-of-living (Non-COLA) method: If a member has elected to forego possible cost-of-living allowances under division (A) of section 742.3716 of the Revised Code by making an election under division (B) of section 742.3716 of the Revised Code, then terminal pay shall be incorporated in the calculation of a pension or benefit as herein described.
- (a) Terminal pay actually earned during the period over which a pension or benefit is based shall be incorporated in the calculation base, and such terminal pay shall be subject to employee and employer contributions.
 - (b) Vacation, paid leave, sick leave, personal leave, and compensatory time alone are governed by the "first-in, first-out" principle.
- (D) For purposes of calculating pensions and benefits, "salary," as defined in division (L) of section 742.01 of the Revised Code, is limited to compensation earned during the period over which a pension or benefit is based.
- (E) For purposes of calculating pensions and benefits consistent with OP&F's past practices, "compensation for services outside the scope of the employee's regular employment" includes any compensation paid to members based on their length of service with the employer, including terminal pay (as defined in section 742.01 of the Revised Code and this rule) that is converted to additional compensation paid to the member upon the achievement of a certain length of service with the employer, but no longer characterized as terminal pay, and not included as part of the member's base pay from and after the entry into and exit from such salary program; provided, however, that if this compensation is rejected by OP&F for the calculation of a pension or benefit, OP&F will allow the member to unwind the conversion of any terminal pay to such additional compensation in order to include the terminal pay in the calculation of pensions and benefits, as permitted by the terms of sections 742.01 and 742.3716 of the Revised Code and this rule.
- (F) Pursuant to the authority granted to the board in section 742.013 of the Revised Code, the definition of "salary" shall include amounts that exceed the salary benchmark determined in division (G) of section 742.01 of the Revised Code if such amounts are

the result of a promotion in rank. Any other amounts that exceed the salary benchmark shall not be included in "salary."

Five Year Review (FYR) Dates: 5/31/2018 and 05/31/2023

CERTIFIED ELECTRONICALLY

Certification

05/31/2018

Date

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Prior Effective Dates: 01/01/1977, 05/12/1983, 07/24/1986 (Emer.),
10/16/1986, 03/19/1987, 08/04/1988, 07/19/1999,
02/07/2000 (Emer.), 05/01/2000, 03/09/2001 (Emer.),
04/09/2001 (Emer.), 05/24/2001, 04/28/2006,
01/07/2013 (Emer.), 03/24/2013

742-3-16

Survivor benefits.

- (A) "Interim Survivor Benefit Payment" is defined as the interim monthly survivor benefit initially paid by Ohio police and fire pension fund ("OP&F") to a surviving spouse of a member in the amount described in division (D) of section 742.37 of the Revised Code until OP&F receives the properly completed survivor pension application and the required documents referenced therein, subject to the terms and conditions set forth in this rule. The survivor pension application, last modified May 11, 2012, can be found on OP&F's website, www.op-f.org.
- (B) Upon receipt of OP&F's notice of the death of a member, the following will occur:
- (1) OP&F will process the interim survivor benefit payment due the surviving spouse, which shall be paid to the member's surviving spouse for a period not to exceed ninety days (the "Interim Period");
 - (2) OP&F will send the surviving spouse an application to the most recent address referenced in the member's record or the address provided to OP&F; and
 - (3) OP&F's third party administrator for healthcare will notify the surviving spouse of any documents needed to ensure the transition of medical expense benefits to the surviving spouse.
- (C) In the event the properly completed application is not received by OP&F by the expiration of the interim period, OP&F will send a notice to the surviving spouse that the interim survivor benefit payments will be suspended, effective sixty days after receipt of the notice of suspension (the "Notice Period"), unless the properly completed application is filed with OP&F on or before the expiration of the notice period.
- (D) In the event the properly completed application is received by OP&F on or before the expiration of the notice period, OP&F will no longer be considered to be paying interim survivor benefit payments, but rather shall be paying the survivor benefit provided for in division (D) of section 742.37 of the Revised Code.
- (E) In the event the interim survivor benefit payments are suspended due to a surviving spouse failing to file a properly completed application on or before the expiration of the notice period, OP&F will begin to pay the survivor benefits provided for in division (D) of section 742.37 of the Revised Code beginning the month following OP&F's receipt of the properly completed application for survivor benefits and OP&F will then pay any retroactive survivor benefits due the surviving spouse, subject to the provisions of paragraph (F) of this rule.

- (F) In the event OP&F pays a benefit to a member prior to OP&F's receipt of notice of the member's death (the "Member Benefit"), the member benefit payment is not returned to OP&F, and the surviving spouse is the beneficiary of the member's estate, then in such event, OP&F will offset any member benefit paid against the survivor benefits due the surviving spouse under division (D) of section 742.37 of the Revised Code or section 742.58 of the Revised Code.
- (G) For purposes of the notices provided for in this rule, the notices will be deemed to have been given as of the earlier of:
- (1) The date of the actual receipt;
 - (2) The next business day when sent via express mail or personal delivery; or
 - (3) Three days after mailing in the case of first class or certified U.S. mail, which will be based upon the date of the postmark of such mailing.
- (H) For purposes of filings provided for in this rule, all filings will be the date of OP&F's actual receipt of the filings.
- (I) OP&F may conclusively rely upon its books and records for purposes of determining the notices and filings provided for in this rule.
- (J) OP&F will pay all other survivor benefits provided for in section 742.37 of the Revised Code upon OP&F's receipt of the properly completed application by eligible parties.
- (K) OP&F will reimburse the medicare part "B" premium to the surviving spouse according to the terms of division (B) of section 742.45 of the Revised Code and rule 742-7-09 of the Administrative Code.

Five Year Review (FYR) Dates: 9/7/2018 and 09/07/2023

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Certification

09/07/2018

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.37, 742.58
Prior Effective Dates: 02/07/2000 (Emer.), 05/01/2000, 02/14/2005,
08/28/2008, 09/26/2013

742-3-23

Spousal consent/designation of multiple beneficiaries.

- (A) As provided in division (D)(1) of section 742.3711 of the Revised Code, spousal consent to a member's plan of payment shall not be required if the member is required to elect a plan of payment pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property.
- (B) A member's current spouse must consent to the election of a plan of payment described in division (A)(4) of section 742.3711 of the Revised Code if either of the following applies:
- (1) The member selects a plan of payment described in division (A)(4) of section 742.3711 of the Revised Code, but Ohio police and fire pension fund's records reflect that the member is not subject to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that requires the member to make such an election;
 - (2) The member is ordered to designate the former spouse as a beneficiary of a specified portion of the benefit, but also designates a beneficiary or beneficiaries other than the current spouse under that plan of payment.

Five Year Review (FYR) Dates: 5/31/2018 and 05/31/2023

CERTIFIED ELECTRONICALLY

Certification

05/31/2018

Date

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Statutory Authority:	742.10
Rule Amplifies:	742.3711
Prior Effective Dates:	03/14/2008

742-3-30

Agents standard of conduct.

(A) All attorneys, agents and representatives of an OP&F member shall abide by the following standards of conduct while representing the member in any dealings with OP&F:

- (1) Provide competent representation to a member, which requires the knowledge, skill, thoroughness and preparation reasonably necessary for the representation. This also includes being, or becoming, familiar with OP&F's governing statutes, administrative rules and procedures;
- (2) Abide by OP&F's governing provisions and procedures at all times;
- (3) Conduct his or her dealings in an ethical manner that furthers the efficient, fair and orderly conduct of the administrative decision-making process. This includes acting with reasonable diligence and promptness in representing a member and providing prompt and responsive answers to requests from OP&F for any relevant information or documentation;
- (4) Be forthright in his or her dealings with OP&F and with the member; and
- (5) Otherwise act in a manner that is consistent with OP&F's core values, which includes acting with prudence, integrity and empathy.

(B) All attorneys, agents and representatives of an OP&F member shall not do any of the following while representing the member in any dealings with OP&F:

- (1) In any manner or by any means threaten, coerce, intimidate, deceive or knowingly mislead any member or beneficiary regarding benefits or other rights;
- (2) Knowingly make or present any misleading oral or written statements, assertions or representations about a material fact or provision of law concerning any matter;
- (3) Through his or her own actions or omissions, unreasonably delay or cause to be delayed any benefit process;
- (4) Divulge, without the member's written consent, any information from the member's personal history record;
- (5) Attempt to influence, directly or indirectly, the outcome of a decision, determination or other administrative action by offering a loan, gift or anything of value to a board member or employee of OP&F; and

- (6) Engage in actions or behavior prejudicial to the fair and orderly conduct of administrative proceedings, including, but not limited to, threatening or intimidating language, gestures or actions.

- (C) All attorneys, agents and representatives of an OP&F member shall be required to sign a letter of engagement on a form provided by OP&F in which they acknowledge the provisions of this rule and agree to abide by such standards when representing an OP&F member in any dealings with OP&F. Any attorney, agent or representative of an OP&F member who fails to sign the letter of engagement or violates any provision of this rule shall not be permitted to practice or represent parties before OP&F's board of trustees.

Five Year Review (FYR) Dates: 9/7/2018 and 09/07/2023

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09/07/2018

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Prior Effective Dates:	09/19/2008 (Emer.), 12/04/2008

ACTION: No Change

DATE: 05/31/2018 3:49 PM

742-4-02

Implementation date of deferred retirement option plan.

As provided for in section 742.43 of the Revised Code, the date of the initial implementation of the deferred retirement option plan (DROP) shall be January 2, 2003.

Five Year Review (FYR) Dates: 5/31/2018 and 05/31/2023

CERTIFIED ELECTRONICALLY

Certification

05/31/2018

Date

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Rule Amplifies:	742.43
Prior Effective Dates:	12/31/2002 (Emer.), 04/06/2003

742-4-04

Rescission of DROP election.

- (A) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (~~definitions~~).
- (B) A DROP ~~participant~~Participant may rescind his/her ~~election~~Election to participate in DROP only upon the occurrence of either of the following events:
- (1) OP&F receives a written authorization/notice from the DROP ~~participant~~Participant that directs OP&F to rescind such election and this written authorization/notice is received by OP&F within thirty (30) days after OP&F received the DROP ~~participant's election~~Participant's Election, as determined by OP&F based upon its books and records.
 - (2) In the event there is at least a ten percent difference between the last OP&F "estimate" of the DROP ~~benefit~~Benefit amount prior to the person filing his/her election and the actual DROP benefit determined by OP&F (i.e. the pension benefit determined in accordance with section 742.442 of the Revised Code), OP&F receives a written authorization/notice from the DROP ~~participant~~Participant that directs OP&F to rescind such ~~election~~Election and this written authorization/notice is received by OP&F within thirty days of OP&F's certified mailing that notifies the member of the difference between the OP&F "estimate" and actual DROP ~~benefit~~Benefit and the DROP ~~participant's~~Participant's right to rescind his/her ~~election~~Election to participate in DROP. Notwithstanding the foregoing, the right to rescind provided for in this subsection shall not apply to estimates done through the calculator on OP&F's website, whether done by OP&F staff or the member.
 - (3) Unless the notice of rescission is not valid in accordance with the terms of this rule (in which case it will not be effective), all notice of rescissions are irrevocable once received by OP&F so the DROP ~~participant~~Participant shall have no opportunity to change his/her decision to rescind his/her participation in DROP.
 - (4) In no event shall OP&F process any rescission under paragraph (B)(2) of this rule if it is subject to any terms and conditions.
- (C) In the event OP&F receives a notice to rescind a DROP ~~participant's~~Participant's ~~election~~Election to participate in DROP and it does not meet the conditions of paragraph (B)(2) of this rule, OP&F shall not process the rescission for such DROP participant and the DROP ~~participant~~Participant shall have no right to rescind his/her ~~election~~Election to participate in DROP.
- (D) In the event a DROP participant properly rescinds his/her ~~election~~Election to participate in DROP in accordance with the provisions of paragraph (B)(2) of this rule, the

member shall not be foreclosed from making another ~~election~~Election to participate in DROP.

Effective:

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Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.44
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003

742-4-05

Purchase of service credit.

- (A) Except for the purchase of service credit done through an irrevocable payroll deduction agreement, which shall be governed by the provisions of rule ~~742-4-16~~742-4-14 of the Administrative Code, OP&F shall offer the member the right to purchase the service credit prior to his/her entry into DROP. In the event the member is given the right to purchase the service credit by OP&F and fails to purchase the service credit prior to his/her ~~effective~~Effective date~~Date~~, OP&F shall calculate the monthly benefit under section 742.442 of the Revised Code based on the member's service credit and "salary" as of the ~~effective~~Effective date~~Date~~.
- (B) In the event the member is given the right to purchase the service credit by OP&F and fails to purchase the service credit prior to his/her ~~DROP effective date~~Effective Date, the member shall be deemed to waive his/her right to purchase service credit.
- (C) For purposes of section 742.21 of the Revised Code, the requirement that a member "is not receiving a pension or benefit payment" shall not include DROP ~~participants~~Participants, unless the DROP ~~participant~~Participant:
- (1) Rescinds his/her ~~election~~Election in accordance with the terms of rule ~~742-4-02~~742-4-04 of the Administrative Code;
 - (2) Ceases participation in DROP in accordance with section 742.445 of the Revised Code, or
 - (3) Fails to terminate active service in the police or fire department at the end of the eight-year period that begins on the ~~effective~~Effective date~~Date~~, as such period is calculated in accordance with the terms of rule 742-4-10 of the Administrative Code.
- (D) 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

742-4-06

Calculation of DROP benefit.

- (A) For purposes of calculating the DROP ~~benefit~~Benefit, OP&F shall determine the monthly pension amount that would have been payable to the DROP ~~participant~~Participant had the member elected to receive normal service retirement benefits under division (C)(1) of section 742.37 of the Revised Code, according to the requirements set forth in divisions (G), (K) and (L) of section 742.01 of the Revised Code, rule 742-3-02 of the Administrative Code and this rule.
- (B) For purposes of paragraphs (C)(1)(b), (C)(1)(c), and (C)(1)(d) of rule 742-3-02 of the Administrative Code, OP&F shall determine the holidays, longevity, stress pay and similar special payments to be used in the calculation of ~~average~~Average annual~~Annual salary~~Salary, based on the following: (1) holidays, longevity, hazard, stress pay and similar special payments paid to the DROP ~~participant~~Participant during the calculation period; or (2) if a portion of the holidays, longevity, hazard, stress pay and similar special payments are disallowed due to such "salary" being outside of the beginning calculation period, but the holidays, longevity, stress pay, or similar special payments are earned at the end of the calculation period, but not paid, OP&F shall include such amounts with the calculation based on the amount paid to the DROP ~~participant~~Participant and reported by the DROP ~~participant's~~Participant's employer to OP&F for the immediate preceding period for the same type of holidays, longevity, stress pay, or similar special payments, as the case may be.
- (C) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (~~definitions~~).

Effective:

Five Year Review (FYR) Dates: 5/31/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.442
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003

742-4-10

Maximum period for DROP participation.

- (A) For purposes of determining the maximum eight-year period for DROP participation, this date will be based on three hundred sixty-five calendar days from the effective date, regardless of the periods during which contributions were paid on behalf of the member. For example, if the member's effective date is January 18, 2003, the last day of the eight-year period shall end on January 17, 2011.
- (B) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code ~~(definitions)~~.

Effective:

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Date

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Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.444
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003

742-4-11

Termination of a member's active service in an police or fire department.

- (A) For purposes of section 742.444 of the Revised Code, "termination of a member's active service in a police or fire department" is presumed to occur if OP&F does not receive consecutive reports or payments of contributions from an employer on behalf of the DROP participant, regardless of which employer reports or pays such contributions to OP&F, as more fully illustrated in the following examples. For example, if the DROP participant works for city A through January 25, 2003 and then begins employment with city B, who is an employer within the meaning assigned to it in division (D) of section 742.01 of the Revised Code, on February 1, 2003, then no termination would exist. On the other hand, if the DROP participant terminated employment with city A on January 25, 2003 and did not resume employment in an OP&F covered position until March 1, 2003, a termination would result under section 742.444 of the Revised Code. This presumption may be rebutted by the member or employer by timely submitting documentation to OP&F that shows the continuation of the employment relationship within the time period requested by OP&F.
- (B) "Employer" shall have the meaning assigned to it in division (D) of section 742.01 of the Revised Code.
- (C) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code ~~(definitions)~~.

Effective:

Five Year Review (FYR) Dates: 9/7/2018

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Date

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Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.444
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 08/28/2008

742-4-12

Impact of family medical leave.

- (A) "Family Medical Leave Act" shall mean the statutory provisions outlined in 29 U.S.C. 2601, ~~as amended et. seq.~~
- (B) ~~For members who are DROP participants, but elect~~ If a DROP participant elects to exercise his/her rights under the Family Medical Leave Act (FMLA), ~~and such election to exercise his/her rights under FMLA~~ shall not extend the time during which the DROP participant can participate in DROP.
- (C) If the DROP participant uses vacation or sick leave so that he/she can stay on his/her employer's payroll, contributions shall be accrued for his/her benefit according to section 742.443 of the Revised Code and rule 742-4-06 of the Administrative Code. In cases where no "salary" is paid to the DROP participant as a result of this election, no accrual of contributions shall be made for his/her benefit.
- (D) This rule shall be subject to the provisions of division (C) of section 742.444 and section 742.445 of the Revised Code.
- (E) 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
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 08/22/2013

742-4-14

Impact of irrevocable payroll deduction on DROP.

- (A) For the purchase of service credit done through an irrevocable pre-tax payroll deduction agreement that provides for the purchase of service credit beyond the member's effective date and which was entered into before the DROP participant's effective date, the member shall not be permitted to terminate such payroll deduction, but the terms of this rule shall apply.
- (B) For those DROP participants who meet the criteria of paragraph (A) of this rule, OP&F shall calculate the monthly DROP benefit under section 742.442 of the Revised Code based on the service credit actually purchased under such payroll deduction plan as of the member's effective date, subject to the limited recalculation done pursuant to paragraph (C) of this rule.
- (C) For those DROP participants who meet the criteria of paragraph (A) of this rule and who complete the irrevocable pre-tax payroll deduction agreement, OP&F shall recalculate the monthly DROP benefit under section 742.442 of the Revised Code based on the service credit actually purchased under such payroll deduction plan and OP&F shall credit that increased benefit for the DROP participant's benefit, beginning the month following the month in which such purchase of service credit was completed; provided, however, that this shall not result in the recalculation of DROP benefits already calculated under section 742.442 of the Revised Code.
- (D) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (definitions).

Five Year Review (FYR) Dates: 7/12/2018 and 06/05/2023

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07/12/2018

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Statutory Authority:	742.10
Rule Amplifies:	742.21, 742.442
Prior Effective Dates:	12/31/2002 (Emer.), 04/06/2003

ACTION: No Change

DATE: 07/12/2018 1:06 PM

742-4-17

Retirement allowance.

For purposes of determining the "retirement allowance" under section 742.3714 of the Revised Code, this shall be the amount calculated by OP&F pursuant to section 742.442 of the Revised Code.

742-4-17

Five Year Review (FYR) Dates: 7/12/2018 and 06/05/2023

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Rule Amplifies:	742.3714
Prior Effective Dates:	12/31/2002 (Emer.), 04/06/2003

ACTION: Original

DATE: 07/12/2018 1:08 PM

742-4-18

Default plan of DROP benefit.

Unless OP&F receives a written notice of distribution from a surviving spouse or ~~duly~~
~~named~~designated beneficiary, as the case may be, for any monies properly due such person
under division (C) of section 742.446 of the Revised Code within thirty days of OP&F's
notice to such person of the final DROP benefit to be distributed to that person under
the foregoing statutory provision, OP&F will process all payments to the appropriate
beneficiary based on a lump sum distribution. This default plan of payment, however, will
not apply in the event that OP&F has no records to determine the surviving spouse or
designated beneficiary of such payments or the address of such surviving spouse or ~~duly~~
~~named~~designated beneficiary.

742-4-18

Effective:

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Statutory Authority:	742.10, 742.43
Rule Amplifies:	742.446
Prior Effective Dates:	12/31/2002 (Emer.), 04/06/2003

742-5-03

Contributing service credit.

(A) As used in this rule:

(1) "Contributing service credit" means service credit earned by a member of the police and fire pension fund ("OP&F") as a result of OP&F receiving employee contributions on salary of that member, as required under section 742.31 of the Revised Code, for full-time contributing service rendered by an OP&F member to a covered employer.

(2) "Full-time contributing service credit" means the following:

(a) For police officers or firefighter assigned to work a standard forty hour work week, the police officer or firefighter must be compensated by his/her employer for at least thirty-seven and one half hours of service for each week included in any normal monthly payroll reporting period; or

(b) For members assigned to work a twenty-four hour platoon system (i.e. twenty-four hours then followed by forty-eight hours off), the fire fighter must be compensated by his/her employer for at least the number of hours of service specified in the following table for each week included in any normal monthly payroll reporting period:

Weekly Hours Base	Weekly Compensated Hours Needed For Full-Time Contributing Service Credit
35	32.81
36	33.75
37	34.69
38	35.63
39	36.56
40	37.50
41	38.44
42	39.38
43	40.31
44	41.25

45	42.19
46	43.13
47	44.06
48	45.00
49	45.94
50	46.88
51	47.81
52	48.75
53	49.69
54	50.63
55	51.56
56	52.50
57	53.43
58	54.38
59	55.31
60	56.25

- (3) "Partial contributing service credit" means prorated service credit allowed for hours of service for each week included in any normal monthly payroll reporting period, which fails to qualify as "full-time contributing service credit," as defined in paragraph (A)(2) of this rule.

For partial contributing service credit, OP&F shall prorate the service credit by dividing the hours compensated during the normal monthly payroll reporting period by the hours base for the monthly reporting period.

- (4) "Hours compensated" means hours for which salary is earned by working regularly scheduled hours or by using accumulated leave hours in order to meet the full-time contributing service credit threshold defined in paragraph (A)(2) of this rule.

(5) For purposes of this paragraph, "hours base" shall mean the standard number of hours the member is scheduled per work week.

(B) On and after the first pay period ending in 1999, OP&F shall accrue contributing service credit to a member's account based on the definitions contained in this rule only for contributing service rendered to an employer as a member of OP&F for the first pay period ending in 1999 and thereafter and in all cases, subject to the provisions of section 742.01 of the Revised Code and rule 742-3-02 of the Administrative Code.

(C) If the actual number of hours compensated is not available from payroll records and the member of OP&F is compensated on an annual salary basis, then a full month of contributing service credit shall accrue for any month in which one twelfth of the annual contract salary is paid.

A partial month of contributing service credit shall accrue for any month in which less than one twelfth of the annual contract salary is paid. The partial month of contributing service credit shall be prorated based on the salary paid divided by one twelfth of the annual contract salary.

(D) Not more than twelve months of contributing service credit can be allowed in a calendar year.

(E) Notwithstanding this rule, no person shall be allowed contributing service credit before the date the person becomes a member of OP&F or after the member's effective date of termination or retirement.

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Rule Amplifies:	742.31, 742.32
Prior Effective Dates:	04/25/1997, 11/18/1999 (Emer.), 02/05/2000, 11/23/2000, 04/28/2006, 05/27/2008 (Emer.), 07/24/2008, 09/26/2013

742-5-08

Service credit purchases by payroll deduction.

- (A) A member of Ohio police and fire pension fund ("OP&F") may purchase any type of service credit through payroll deduction that a member is eligible to purchase under any provisions of Chapter 742. of the Revised Code, including but not limited to, Revised Code sections 742.21 (service credit earned for full-time service as member of state or municipal retirement system ~~or united states armed forces; computation of benefits, purchase of service credit~~), 742.221 (conditions to receive credit for time spent on pregnancy or medical disability leave; purchase of service credit), 742.23 (credit to firefighters for service time as police officers), 742.24 (credit to police officers for service time as firefighters), 742.27 (credit for ~~time laid off~~ lay off period), 742.371 (redeposit of withdrawn contributions), 742.375 (~~police officers and firefighters to receive credit for service~~ in as a member of the state highway patrol retirement system), 742.376 (~~provisions for credit for service as a full-time member of a police or fire department prior to January 1, 1967~~), 742.52 (purchase of credit for military service ~~refund~~), and 742.521 (granting of credit for military service credit).
- (B) Upon a member's request to OP&F to purchase service credit by payroll deduction for service credit the member is eligible to purchase pursuant to section 742.56 of the Revised Code and this rule, OP&F will prepare an authorization form which states the following:
- (1) The service to be purchased, including the total months of service and the type of service;
 - (2) The total cost of the service credit to be purchased through payroll deduction;
 - (3) An authorization from the member to make the total number of payroll deductions in the stated amount, starting with the proposed start date and ending on the proposed completion date; provided, however, that the payroll deduction cannot exceed the member's net compensation after all deductions and withholdings required by law.
- (C) If the member wishes to complete the payroll plan referenced in paragraph (B) of this rule, the member must sign and cause his or her employer to sign the ~~completed authorization form in the format prescribed~~ prepared by OP&F or ~~substantially similar thereto, the member shall cause the employer to sign the completed form in the format prescribed by OP&F or substantially similar thereto for members purchasing service credit with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2), and return the fully executed original form to OP&F,~~ with a copy being given by the member to the ~~The member's~~ member shall provide his or her employer with a copy of the authorization form on a timely basis in order

for in a timely manner so that the employer ~~to~~can properly implement the payroll deduction plan elected by the OP&F member.

- (D) The procedure to be followed by OP&F in determining the total cost of the eligible service credit to be purchased by an OP&F member through a payroll deduction will be based upon the assumption that the purchase is to be made in a single lump-sum payment on the proposed date of the completion of the purchase, with the total cost then being divided by the number of payroll periods between the proposed start and the proposed completion date of the payroll deduction in order to yield a level amount of the deduction, which is all based upon the member's original request.
- (E) As required by section 742.56 of the Revised Code, OP&F will certify the amount to the employer through a monthly billing the amount of each deduction and the payrolls from which deductions are to be made. The employer shall forward that payroll deduction to OP&F so that the applicable payroll deduction and the payroll deduction statement are received by OP&F by the close of business on the last business day of the following month, excluding any legal holidays, consistent with the reporting requirements in section 742.32 of the Revised Code. The employer's payroll deduction statement shall be accompanied by a completed OP&F recap form, as referenced in rule 742-9-17 of the Administrative Code.
- (F) For purposes of assessing the penalties prescribed by section 742.352 of the Revised Code and rule 742-8-07 of the Administrative Code for all filings due OP&F under section 742.56 of the Revised Code, OP&F shall take the following course of action:
- (1) No payroll deduction report/no payroll deduction. If the required payroll deduction prescribed by section 742.56 of the Revised Code is not made in accordance with the deadline outlined in such section and no payroll deduction report is filed with OP&F in accordance with the deadline outlined in such section, OP&F shall assess the penalties prescribed by section 742.352 of the Revised Code and rule 742-8-07 of the Administrative Code.
 - (2) Payroll deduction report/no payroll deduction. If the required payroll deduction report prescribed by section 742.56 of the Revised Code is filed with OP&F in accordance with the deadline outlined in such section, but the proper payroll deduction is not paid to OP&F in accordance with the deadline outlined in such section, OP&F shall assess the penalties prescribed by section 742.352 of the Revised Code and rule 742-8-07 of the Administrative Code.
 - (3) No payroll deduction report/payroll deduction. If the required payroll deduction report prescribed by section 742.56 of the Revised Code is not filed with OP&F in accordance with the deadline outlined in such section, but a payroll deduction is made with OP&F in accordance with the deadline outlined in such section,

OP&F shall assess the penalties prescribed by section 742.352 of the Revised Code.

(4) All other cases, the following shall apply:

(a) Non-conforming payroll deduction report. OP&F shall initially give verbal notice to the employer of the non-conforming nature of the report and allow the employer to have an opportunity to take corrective actions to cure such deficiencies within thirty days of OP&F's verbal notice of deficiency. If the employer has not submitted a writing to OP&F that properly addresses the noted deficiencies by Friday of the week in which OP&F gave the verbal notice, OP&F shall then send a written notice to the employer of the non-conforming nature of the report and allow the employer to still have an opportunity to take the corrective actions identified in the written notice from OP&F within thirty days of OP&F's initial verbal notice (referred to herein as the "cure period"), and the following shall apply:

(i) If the employer files a corrected payroll deduction report and such report is received by OP&F on or before the expiration of the cure period, no penalties will be assessed by OP&F against the employer.

(ii) If OP&F does not receive from the employer a corrected payroll deduction report, as noted in OP&F's written notice to the employer, on or before the expiration of such cure period, then OP&F will assess the penalties prescribed by section 742.352 of the Revised Code and rule 742-8-07 of the Administrative Code, beginning the day after the expiration of the cure period.

(b) In all other situations, OP&F will notify the employer in writing of the employer's failure to comply with the provisions of section 742.56 of the Revised Code and ~~shall then send a written notice to the employer of the failure to comply with section 742.56 of the Revised Code and shall allow the employer to still have an opportunity to take the corrective actions identified in the written notice from OP&F within thirty days of OP&F's initial verbal notice (referred to herein as the "cure period"), and the following shall apply:~~

(i) If the employer files a correct payroll deduction report and such report is received by OP&F on or before the expiration of the cure period, no penalties will be assessed by OP&F against the employer.

- (ii) If OP&F does not receive from the employer the proper payroll deduction report, as noted in OP&F's written notice to the employer, on or before the expiration of such cure period, then OP&F will assess the penalties prescribed by section 742.352 of the Revised Code and rule 742-8-07 of the Administrative Code, beginning the day after the expiration of the cure period.
- (5) Even with the cure period, the employer will still be assessed any statutory fines for late filings and/or payments, as the case may be under the applicable statutory provision.
- (6) This rule shall apply once the payment and/or report has been filed with OP&F and shall not limit any other remedies available to OP&F by law.
- (G) Upon receipt of the applicable monthly payroll deduction, as certified by OP&F, OP&F will grant the service credit to the member based on the percentage of the service credit for which the member is eligible to receive multiplied by the ratio of the amount actually received by OP&F divided by the total amount due OP&F pursuant to section 742.56 of the Revised Code and this rule.
- (H) All payroll deduction plans may last no longer than sixty months, or if less, the period of service to be purchased.
- (I) No member may participate in more than one payroll deduction plan to purchase service credit provided for in section 742.56 of the Revised Code and this rule, even though the payroll deduction plan may include various types of service credit.
- (J) Tax deferred payroll deduction plans (i.e. pick-up plans) shall be irrevocable and may only be terminated upon the member's termination of employment with the employer who is implementing the member's payroll deduction plan.
- (K) Except for tax deferred payroll deduction plans (i.e. pick-up plans), a member can increase or decrease the member's payroll deduction by written notice to the member's employer and OP&F, except that in no event shall a deduction be decreased to less than an amount specified by OP&F in a board policy or the current month's interest, whichever is greater.
- (L) ~~Beginning from and after September 16, 1998,~~ OP&F will not treat a member who is purchasing credit pursuant to this rule with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2) unless the employer certifies in writing the tax deferred status of the payroll deduction plan as part of the employee's enrollment in the payroll deduction plan ~~or within ninety days of OP&F's request,~~ and OP&F will rely upon

certification in determining the taxability of benefits due the member, as outlined in rule 742-9-14 of the Administrative Code. In the event that the employer fails to provide such certification, then OP&F will treat the payroll deduction plan as a regular non-tax deferred payroll deduction plan. In all events, it shall be the responsibility of the employer to establish the tax deferred payroll deduction plan, as required by the applicable terms of the Internal Revenue Code. Employers that wish to pay all or part of the voluntary contributions for the purchase of service credit through payroll deductions shall submit the standard resolution in the form adopted by OP&F's board of trustees, as required by rule 742-7-14 of the Administrative Code.

- (M) For members who are purchasing credit pursuant to this rule with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2), such members cannot do any of the following:
- (1) Decrease or increase the payroll deduction;
 - (2) Terminate the payroll deduction, unless the member has terminated employment with such employer or all of the service credit has been purchased through the applicable payroll deduction plan; or
 - (3) Make a partial payment for the purchase of service credit outlined in this rule.
- (N) For members who are purchasing credit pursuant to this rule with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2), the employer cannot decrease, increase, or terminate such payroll deduction unless the member has terminated employment or all of the service credit has been purchased through the applicable payroll deduction plan.
- (O) Except for tax deferred payroll deduction plans (i.e. a pick-up plan), a payroll deduction plan may be terminated upon any of the following events:
- (1) The failure of the employer to forward to OP&F the monthly payroll deduction for three consecutive months, with the termination being effective the first month in which the employer failed to forward the deduction to OP&F without any further action on the part of the employee, the employer or OP&F;
 - (2) Upon the member's termination of employment with the employer who is implementing the member's payroll deduction plan;
 - (3) In cases where a payroll deduction ~~exceed~~exceeds the member's net pay after all deductions and withholdings required by law; or

- (4) When the payroll deductions received by OP&F equal the total cost of the eligible service credit, as originally outlined in OP&F's authorization form ~~duly~~ signed by the member.
- (P) On early termination of the payroll deduction plan, the member will be credited with a proportion of the service to be purchased equal to the proportion of time the payroll deduction plan ~~was in effect~~ became effective to the time the payroll deduction plan was scheduled to complete the purchase. In addition, OP&F will provide written notice of such termination to the member. ~~Beginning January 1, 2007, for employers who wish to pay all or part of the voluntary contributions for the purchase of service credit through payroll deductions, the employers shall submit the standard resolution in the form adopted by OP&F's board of trustees:~~

Effective:

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Rule Amplifies: 742.10, 742.21, 742.221, 742.23, 742.24, 742.27,
742.32, 742.371, 742.375, 742.376, 742.52, 742.521,
742.56
Prior Effective Dates: 12/29/1986, 06/24/2001, 10/26/2006, 05/22/2008,
08/19/2013

742-9-11

Penalties for employer's failure to file the report of employee deductions in a format approved by OP&F.

For purposes of determining whether the employer has timely transmitted the reports and/or payments required by section 742.32 or 742.35 of the Revised Code, as the case may be under the applicable statutory provision, OP&F will rely on its books and records as of the close of business on the due date, except that in the case of electronic reports filed with OP&F, the "close of business" shall mean midnight on the statutory due date. (For example, for contributions withheld in April, the report and payments are due to OP&F by the close of business on May thirty-first, which is the due date. If OP&F receives a report in the proper format and the requested payment by the close of business on May thirty-first, then no penalties and interest would apply.) Thus, paper reports must be received by OP&F's close of business on the statutory due date and electronically filed reports must be received before midnight on the statutory due date.

In no event would this rule impact the penalties that would apply in cases where the report was filed by the statutory due date, but was not in proper format, as outlined in rule 742-9-10 of the Administrative Code.

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10/23/2000, 02/11/2002 (Emer.), 04/29/2002,
06/18/2007, 07/24/2008

742-9-17

Summary of payment remittance information form (recap form).

- (A) Payments and reports due OP&F under the following provisions shall be accompanied by a completed summary of payment remittance information form (i.e., the recap form) ~~in the form attached to this rule as appendix A:~~ section 742.32 of the Revised Code and rule 742-9-10 of the Administrative Code (member contributions), and section 742.56 of the Revised Code and rule 742-5-08 of the Administrative Code (payroll deduction purchases). The summary of payment remittance information form (i.e., the recap form), last modified July 5, 2016, can be found on OP&F's website, www.op-f.org.
- (B) For purposes of prompt and efficient processing, employers are requested to submit a completed summary of payment remittance information form (i.e., the recap form) to OP&F ~~in the form attached to this rule as appendix A~~ with any payments due OP&F under the following provisions: sections 742.30 (accrued liability), 742.301 (penalties for accrued liability), 742.35 (employer contributions), 742.352 (penalties for failing to transmit certain payments or reports), and 742.521 (military leave granting) of the Revised Code.

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Prior Effective Dates: 05/22/2008

3307:1-2-01

Service credit.

(A) As used in section 3307.53 of the Revised Code and this rule:

(1) "Full-time service" means employment as a teacher under a contract that:

(a) Requires teaching service that begins and ends on either:

(i) The first and last day of a year consisting of three hundred sixty-five days; or

(ii) The first and last day of a school year of at least the minimum hours required by sections 3313.48 and 3314.03 of the Revised Code or two semesters; and

(b) Provides compensation in an amount equal to the rate paid under an employer's overall salary schedule for teachers of the same experience teaching the entire day for every day of the school year. College and university teachers must be employed under a contract that provides compensation equal to the rate paid to other teachers of the same experience teaching the designated full-time equivalent workload.

(2) "Part-time service" means employment on any basis other than those identified in paragraph (A)(1) of this rule.

(B) Full-time service:

(1) One hundred twenty or more days or two semesters of contributing service as a teacher for a single employer constitutes one year of service credit to be used in determining total credit for retirement purposes.

(2) If less than one hundred twenty days of teaching, the annual service credit will be determined in accordance with paragraph (C) of this rule.

(C) Part-time service:

(1) If a teacher has taught in a given year for one employer for at least ninety days or five hundred hours, where hours are used only when the actual number of days of service is not available from the employer's records, service credit shall be calculated as follows, provided that the employment relationship has been in effect for a period of time at least equal to one hundred twenty days of that school year:

- (a) If total compensation for the year is in an amount at least equal to the base amount as defined in section 3317.13 of the Revised Code, annual service credit shall be one year.
- (b) If total compensation for the year is in an amount less than the base amount as defined in section 3317.13 of the Revised Code, annual service credit shall be the ~~greater~~lesser of:
- (i) Actual days of service divided by one hundred eighty; or
 - (ii) Hours of service divided by one thousand, but only if the actual number of days of service is not available from the employer's records; or
 - (iii) Actual compensation for the year divided by ~~the amount specified as the base amount as defined in section 3317.13 of the Revised Code~~twelve thousand dollars.
- (2) If a teacher has taught for one employer for less than ninety days or five hundred hours in a year or the employment relationship has been in effect for a period of time less than one hundred twenty days of that school year:
- (a) Service credit will be determined by the lesser of: dividing the number of days or partial days for which compensation was paid for actual teaching service rendered by one hundred eighty:
- (i) dividing the number of days or partial days for which compensation was paid for actual teaching service rendered by one hundred eighty; or
 - (ii) actual compensation for the year divided by twelve thousand dollars.
- (b) If actual number of days or partial days taught is not available from payroll records and the teacher is compensated for hourly service, service credit will be determined by the lesser of: dividing the number of hours for which compensation was paid by one thousand:
- (i) dividing the number of hours for which compensation was paid by one thousand; or
 - (ii) actual compensation for the year divided by twelve thousand dollars.
- (3) ~~If a teacher has worked in a year for one employer any part of every day required for full-time teachers, annual service credit shall be one year.~~

- ~~(4)~~(3) If actual number of days or partial days taught is not available from payroll records and the teacher is compensated for per cent based salaried service, service credit granted on a contract which is issued on per cent of full-time employment as a teacher will be determined in accordance with the actual contract percentage averaged over three quarters or two semesters during the year, except that one full year of service credit will be granted when such employment exceeds sixty-six per cent averaged over three quarters or two semesters during the year.
- (D) Supplemental salaried service: Compensation received as a result of reimbursement from a contracted third party or agency for supplemental services rendered in addition to the full-time contracted work period or workload shall not be subject to contributions to the state teachers retirement system as provided in division (B) of section 3307.01 of the Revised Code and section 3307.26 of the Revised Code.
- (E) Non-teaching periods: Service credit granted for contribution paid during non-teaching periods authorized in sections 3307.77 and 3345.28 of the Revised Code shall be determined by the amount of contribution actually paid divided by the amount of contribution the member would have paid for full-time employment if the non-teaching period had not occurred.
- (F) Credit for teaching service in and after September 1971 previously reported for all active members on the date of this amendment of this rule may be recalculated in accordance with this rule. Credit for part-time salaried service earned prior to September 1971 may be evaluated and recalculated in accordance with the versions of this rule in effect between December 23, 1976 and the effective date of this amendment.

Effective:

Five Year Review (FYR) Dates: 5/1/2020

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.53
Prior Effective Dates: 12/23/1976, 12/26/1981, 01/19/1996, 07/01/2001
(Emer.), 09/17/2001, 06/11/2010, 05/07/2015

3307:1-11-05

Health care services - medicare part B reimbursement.

- (A) Pursuant to section 3307.39 of the Revised Code, certain benefit recipients who request reimbursement and verify enrollment in the medicare part B insurance program with the retirement system may be eligible for reimbursement for a portion of the cost of the basic medicare part B premium for months where eligible individuals are enrolled in both a medical plan offered by the retirement system and medicare part B. For approved requests received on or before the fifteenth day of a month, reimbursement begins the first of the month after the date the request is received; otherwise, reimbursement begins the first of the second month after the date the request is received. Reimbursement will be based on service credit in an amount as periodically determined by the retirement board that meets the provisions in division (B) of section 3307.39 of the Revised Code. ~~Effective January 1, 2019, all medicare part B reimbursement will be discontinued. The retirement board may suspend or discontinue medicare part B reimbursement at any time in its sole discretion.~~
- (B) The following benefit recipients who continually meet the provisions in paragraph (A) of this rule are eligible for reimbursement as specified in this rule:
- (1) A primary recipient.
 - (2) A survivor benefit recipient with an effective benefit date that is on or before December 1, 2014 excluding survivor benefit recipients who became a beneficiary prior to January 1, 2008 and were age sixty-five prior to January 1, 2008.
 - (3) A survivor annuitant for whom reimbursement is calculated to be the amount of reimbursement the service retiree would have received divided by the number of survivor annuitants of the deceased service retiree, and whose monthly survivor annuitant benefit began between January 1, 2008 and December 1, 2014, is eligible to receive reimbursement for a maximum of five years from the date he or she became a survivor annuitant, excluding survivor annuitants who were named as a beneficiary prior to January 1, 2008 and were age sixty-five prior to January 1, 2008.
- (C) Upon request, a benefit recipient receiving medicare part B premium reimbursement under this rule shall certify the amount paid for medicare part B coverage. The reimbursement amount provided under this rule shall not exceed the amount paid by the benefit recipient.
- (D) For purposes of section 3307.39 of the Revised Code and this rule, basic medicare part B premium means the amount of the standard monthly medicare part B premium determined by the United States secretary of health and human services prior to

3307:1-11-05

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any premium increases, such as late enrollment penalties or income related monthly adjustment amount being made.

Effective:

Five Year Review (FYR) Dates: 6/10/2021

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.39
Prior Effective Dates: 12/23/1976, 11/28/1977, 03/17/1989 (Emer.),
06/01/1989, 09/23/1991 (Emer.), 05/28/1992,
06/22/1992 (Emer.), 09/10/1992, 02/13/1993,
09/01/1996, 07/03/1997, 09/16/1998 (Emer.),
11/27/1998, 05/25/2000, 07/01/2001 (Emer.),
09/17/2001, 01/01/2004 (Emer.), 03/22/2004,
09/30/2004, 11/09/2006, 01/01/2007 (Emer.),
04/01/2007, 03/27/2014, 09/04/2014, 06/10/2016,
01/01/2017

3307:2-7-02

Allocation of funds.

- (A) All funds credited to the account of a participant in the defined contribution program shall be allocated to the "STRS Target Choice Option" that falls immediately before the participant's sixtieth birthday with the earliest target date until an allocation directing otherwise is received from the participant.
- (B) After the expiration of the one hundred-eighty-day election period provided by section 3307.25 of the Revised Code, the allocation of any contributions made retroactively to a defined contribution program account shall be credited as outlined in paragraphs (B)(1) and (B)(2) of this rule:
- (1) Contributions received in the first one hundred-eighty days of membership shall be credited as of the last day of the one hundred-eighty-day election period and all other contributions for past service shall be credited as of the first business day following the day the contributions were received by the state teachers retirement system.
 - (2) The sum accumulated on the retroactive contributions shall be calculated by the greater of the following two alternatives:
 - (a) All contributions allocated to the "STRS Money Market" choice at the net asset value of the money market choice at the close of business on the day outlined in paragraph (B)(1) of this rule; or
 - (b) All contributions allocated to the "STRS Target Choice Option" that falls immediately before the participant's sixtieth birthday with the earliest target date, at the net asset value of the "STRS Target Choice Option" at the close of business on the day outlined in paragraph (B)(1) of this rule.

Effective:

Five Year Review (FYR) Dates: 6/1/2019

Certification

Date

Promulgated Under:	111.15
Statutory Authority:	3307.80
Rule Amplifies:	3307.81
Prior Effective Dates:	09/17/2002, 05/11/2007, 07/01/2013 (Emer.), 09/09/2013, 06/12/2014

ACTION: Original

DATE: 05/17/2018 2:54 PM

3307:2-7-03

Rollovers received.

Direct rollover distributions of pretax amounts may be received by the retirement system as specified by the plan document, provided:

- (A) Application shall be on a form provided by the retirement system; and
- (B) Application shall be subject to determination by the retirement system that the transferring plan or account is eligible to rollover funds to the plan in which the member participates.
- (C) Rollover distributions are initially invested in the "STRS Target Choice Option" ~~with the earliest target date~~ that falls immediately before the participant's sixtieth birthday at the time of deposit. Participants may reallocate the funds any time after the deposit is made.

Effective:

Five Year Review (FYR) Dates: 6/1/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.80
Rule Amplifies: 3307.81, 3307.812
Prior Effective Dates: 06/18/2009, 07/01/2013 (Emer.), 09/09/2013,
06/12/2014

3309-1-08

Payment of benefits and allowances.

- (A) Effective July 1, 1953 all annuities, retirement allowances, and benefits provided by law and payable in monthly installments shall be due and payable in full on the first day of the month.
- (B) All annuities, retirement allowances, and benefits shall be paid on the first day of the month due.
- (C) The retirement system may suspend any annuity, retirement allowance or benefit under the following circumstances:^{if}
- (1) If the system has good cause to believe either of the following:
 - ~~(1)~~(a) That a retirant or benefit recipient may be incapacitated, and no other person has authority to act or receive payment on the retirant or benefit recipient's behalf; or
 - ~~(2)~~(b) That a retirant or benefit recipient is deceased or missing.
 - (2) If correspondence sent to the most recent mailing address provided by a retirant or benefit recipient is returned to the system as undeliverable and the system does not receive an updated mailing address within thirty days of receipt of the undeliverable correspondence.

3309-1-08

Effective:

Five Year Review (FYR) Dates: 2/1/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.341, 3309.35, 3309.36, 3309.381, 3309.40,
3309.401, 3309.45, 3309.46
Prior Effective Dates: 12/24/1976, 01/07/2013, 03/30/2015

3309-1-54

Purchase of service credit ~~with amounts designated as picked-up contributions~~ by payroll deduction.

(A) A member of the school employees retirement system may purchase service credit by payroll deduction ~~with amounts designated by the member's employer as picked-up contributions under a plan which is in compliance with section 414(h)(2) of the Internal Revenue Code~~ pursuant to agency-level 3309 of the Administrative Code and section 3309.021, 3309.022, 3309.26, 3309.261, 3309.301, 3309.31, 3309.41, 3309.473, 3309.474, 3309.73, 3309.731, or 3309.75 of the Revised Code.

Prior

- (1) Payroll deduction purchase plans received before January 1, 2019, and whose starting date is before January 1, 2019, shall be paid with amounts designated by the member's employer as picked-up contributions under a plan in compliance with section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C. 414(h)(2). Prior to the purchase of service credit with amounts designated as picked-up contributions, the member's employer shall have adopted and filed with the retirement system a resolution authorizing the purchase of service credit for its employees by payroll deduction with amounts designated as picked-up and paid to the retirement system by the employer.
- (2) Payroll deduction purchase plans with a starting date on or after January 1, 2019 may not be paid with amounts designated by the member's employer as picked-up contributions under a plan in compliance with section 414(h)(2) of the Internal Revenue Code.

(B)

- (1) Upon a member's request to purchase service credit ~~with amounts designated as picked-up contributions~~, the retirement system shall prepare and forward to the member payroll deduction purchase plan documents, which shall include a cost estimate and a payroll deduction authorization form. The payroll deduction authorization form shall which sets set forth:
- (a) The type and amount of service to be purchased;
- (b) The employer's payroll cycle;
- (b)(c) The number of ~~months over~~ payments in which the service is to be purchased; ~~including the month of commencement and termination;~~ and
- (e)(d) The amount of each ~~monthly~~ payment; and -
- (e) The starting date of the payments.

(2) ~~The~~

(a) The member shall complete and sign the employee portion of the payroll deduction authorization form and forward it to the member's employer;

~~(b)~~ (b) The payroll officer of the member's employer shall complete the employer's portion of the payroll deduction authorization form; and return the form to the retirement system.

(c) The retirement system must receive the completed authorization form and first payment before the expiration of the cost estimate.

~~(4) A separate payroll deduction authorization form shall be completed for each separate type of service credit to be purchased.~~

(C)

(1) A separate payroll deduction authorization form shall be completed for each separate type of service credit to be purchased;

(2) Only one service credit purchase plan at a time may be in place for each separate type of service credit;

(3) The maximum number of months over which service may be purchased under a payroll deduction purchase plan shall be one hundred and twenty;

(4) The allocation of each payment toward interest and purchase of service credit shall be uniform for the period of the payroll deduction purchase plan;

(5) If a payroll deduction purchase plan is terminated early, the member shall be granted service credit based on the total amount allocated toward the purchase of service that was remitted to the retirement system under the payroll deduction purchase plan.

~~(+)~~(D) ~~The~~

(1) The employer shall begin payroll deduction in on the month starting date set forth on the payroll deduction authorization form.

(2) The employer shall remit the amounts withheld and designated as picked up contributions directly to the retirement system on a monthly the employer's payroll cycle basis; accompanied by a report that identifies the members for which amounts are being remitted by name and social security number.

(3) Notwithstanding paragraph (E)(2) or (F)(2) of this rule, if a completed payroll deduction authorization form is returned to the retirement system, but at any point thereafter the employer fails to remit the amounts to be withheld to the retirement system for three consecutive months, the retirement system shall terminate the payroll deduction purchase plan.

(D)

~~(1) Upon request from the public employees retirement system or the state teachers retirement system, the school employees retirement system shall calculate and certify to the requesting system the cost to a former member to restore service credit under section 3309.26 of the Revised Code, plus interest, for each year or portion of a year for which the member seeks to purchase service credit.~~

~~(2) Upon receipt of payments transferred pursuant to section 145.311 or 3307.711 of the Revised Code, the school employees retirement system shall restore the former member's service credit for which payment is transferred.~~

(E)

When a member is purchasing service credit under a payroll deduction purchase plan as provided for in paragraph (A)(1) of this rule:

~~(1) A~~ The member who is purchasing service credit pursuant to this rule cannot:

~~(a)~~ Decrease or increase the amount of the payroll deduction;

~~(b)~~ Terminate the payroll deduction unless the member has terminated employment or purchased all of the service credit set forth on the payroll deduction authorization form; or

~~(c)~~ Make a direct payment to the retirement system to purchase the service credit.

~~(2)~~ The member's employer shall not decrease, increase, or terminate the payroll deduction unless the member has terminated employment or purchased all of the service credit set forth on the payroll deduction authorization form.

~~(3) Notwithstanding paragraph (E)(2) of this rule, if an employer returns a payroll deduction authorization form to the retirement system, but at any point thereafter fails to remit the amounts to be withheld to the retirement system for three consecutive months, the retirement system shall terminate the service credit purchase. In the event of termination under this paragraph, the member~~

~~shall be granted service credit based on the total amount that was remitted to the system under the payroll deduction plan.~~

(F) When a member is purchasing service credit under a payroll deduction purchase plan as provided for in paragraph (A)(2) of this rule:

(1) The member can:

(a) Terminate a payroll deduction plan at any time by providing written notice to the member's employer and by notifying the retirement system;

(b) Make a direct payment to the retirement system to purchase the remaining service credit. To purchase the remainder of service credit, the member must first terminate the payroll deduction purchase plan and then submit a request to the retirement system for a statement of the balance due.

(2) The member's employer shall not decrease, increase, or terminate the payroll deduction purchase plan unless the member has terminated the payroll deduction purchase plan, terminated employment, or purchased all of the service credit set forth in the payroll deduction authorization form.

(G) A member who has had one or more prior payroll deduction purchase plans for a type of service credit may establish a new payroll deduction purchase plan for the same type of service credit. The new plan's commencement date must be six or more months after the first deduction under the most recent payroll deduction purchase plan for the same type of credit.

(H) Upon receipt of payments transferred pursuant to section 145.311 or 3307.711 of the Revised Code, the school employees retirement system shall restore the former member's service credit for which payment is transferred.

Effective:

Five Year Review (FYR) Dates: 2/1/2022

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.021, 3309.022, 3309.26, 3309.261, 3309.262,
3309.27, 3309.301, 3309.31, 3309.35, 3309.41,
3309.473, 3309.474, 3309.73, 3309.731, 3309.75
Prior Effective Dates: 11/01/1997, 02/11/2000, 05/02/2001, 11/19/2001
(Emer.), 02/11/2002, 05/03/2002, 01/07/2013 (Emer.),
03/08/2013, 08/13/2015, 04/06/2017

3309-1-58

Retirement of member pursuant to section 3309.343 of the Revised Code.

(A) For purposes of section 3309.343 of the Revised Code and this rule:

- (1) "Active position" means a position a member worked in the month before retirement and for which contributions were being received by a state retirement system at the time of retirement pursuant to section 3309.343 of the Revised Code.
- (2) "SERS annual compensation" means a member's compensation for an active position reported by an employer to the school employees retirement system for the most recent twelve-month period. If the compensation has been reported for less than a twelve-month period, the system shall convert the compensation to an annual basis.
- (3) "Other retirement system annual compensation" means a member's annual earnable salary or compensation for an active position as certified to this system by the public employees retirement system or the state teachers retirement system.
- (4) "Highest annual compensation" means the highest of the SERS annual compensation or the other retirement system annual compensation for an active position.
- (5) "Position" means employment for which a member is covered and contributes to a state retirement system.
- (6) "State retirement system" means the school employees retirement system, the public employees retirement system or the state teachers retirement system.
- (7) "Other retirement system" means the public employees retirement system or the state teachers retirement system.

(B)

- (1) When a member holds more than one active position in this system, no active positions in an other retirement system, and is electing to take a retirement benefit pursuant to section 3309.343 of the Revised Code, the member shall:
 - (a) Apply for a benefit pursuant to section 3309.35, 3309.36, or 3309.46 of the Revised Code, for the active position which has the highest SERS annual compensation; and

(b) Select which other active position or positions upon which the member shall continue to contribute to this system.

(2) In computing the benefit described in paragraph (B)(1) of this rule all service credit in this system shall be used.

(C)

(1) When a member holds one or more active positions in this system and one or more active positions in an other retirement system, and the active position which has the highest annual compensation is in this system, the member shall:

(a) Apply for a benefit pursuant to section 3309.35, 3309.36, or 3309.46 of the Revised Code, for the active position which has the highest annual compensation; and

(b) Select which other active position or positions upon which the member shall continue to contribute to this system or to an other retirement system.

(2) In computing the benefit described in paragraph (C)(1) of this rule, all service credit in any state retirement system shall be used.

(D) Employment in any position covered by this system that begins subsequent to the effective retirement benefit date under section 3309.343 of the Revised Code shall be subject to section 3309.341 of the Revised Code, and rule 3309-1-50 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 2/1/2021

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.343
Prior Effective Dates: 05/02/2001, 05/11/2006, 07/10/2016

5505-3-02

Disability retirement application and hearing process.

(A) For the purpose of sections 5505.18 and 5505.181 of the Revised Code and agency 5505 of the Administrative Code:

- (1) "Member" shall have the meaning described in division (J) of section 5505.01 of the Revised Code except "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.
- (2) A terminated employee, whether the termination from the state highway patrol is voluntary or involuntary, ceases to be a member of the state highway patrol retirement system (HPRS). Except as provided in rule 5505-3-07 of the Administrative Code, a member shall not be considered terminated while receiving benefits pursuant to section 124.385 of the Revised Code.
- (3) "Totally and permanently incapacitated" means a disabling condition that physically or mentally totally incapacitates a member from the performance of regular duty for a period of at least twelve months from the date of HPRS's receipt of the completed application packet.
- (4) "In the line of duty" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of the state highway patrol.
- (5) "Not in the line of duty" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of the state highway patrol. Unless the illness or injury meets the presumption criteria outlined in division (A) of section 5505.18 of the Revised Code or competent and credible evidence is submitted to HPRS, a disability condition is presumed to be not in the line of duty.

To be eligible for retirement on account of a disability incurred not in the line of duty, the member must have accrued five years of service credit since becoming a "member" as defined by this rule and section 5505.18 of the Revised Code.
- (6) "Disability committee," as referred to in this rule, shall mean the "health, wellness, and disability" standing committee established pursuant to paragraph (A)(1) of 5505-9-08 of the Administrative Code.
- (7) "Medical advisor," as referred to in this rule, shall mean the expert physician appointed by HPRS' board who advises the disability committee and board during its deliberations relating to disability applications.

- (8) "Examining physician" means a physician recommended by the medical advisor and approved by the HPRS board.
- (9) Unless otherwise stated in this rule, all notifications or correspondence shall be sent by regular U.S. mail to the member's address included in disability benefits application unless HPRS receives notice in writing of an alternative address.
- (B) A disability benefits application packet, hereafter referred to as application packet, provided by HPRS may be filed by a member, a person acting on behalf of a member, or the superintendent of the state highway patrol. In order for the application packet submission to be considered complete, the applicant will submit the following:
- (1) A completed application for disability benefits, on a form approved by the board, listing the disabling condition(s),
 - (2) Attending physician medical evaluation form and statement, on a form approved by the board, supporting the disabling condition(s) listed in the application,
 - (3) Employer determination and completed form of applicant's inability to perform his/her job duties and responsibilities, and
 - (4) All medical reports and documentation that relate to the disabling conditions listed in the application. All medical reports must be received within one week of initial submission of application.
 - (5) An incomplete application packet will not be accepted and will not be considered filed.
 - (6) Once an application packet has been accepted by HPRS and submitted to the medical advisor, additional medical reports or documentation will not be accepted unless requested by the board, disability committee or the medical advisor. Any documentation that is received by HPRS after submission of the application packet to the medical advisor shall be held and included as part of any reconsideration hearing as described within this rule. Should the right to reconsideration not be exercised, the additional medical evidence will be returned to the applicant.
 - (7) An application packet that does not include an attending physician medical evaluation statement that indicates the applicant is totally and permanently incapacitated will not be accepted.
- (C) Upon receipt of a completed application packet, HPRS shall schedule the applicant for an examination by at least one examining physician with expertise in the disabling

condition(s) listed in the application as recommended by the medical advisor, unless the medical advisor recommends it is inadvisable to do so.

- (1) Payment of any fees connected to the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.
 - (2) Payment of any fees connected with the preparation of report of the examining physician(s) shall be the responsibility of HPRS.
- (D) After examining the applicant and reviewing the application packet, any medical reports submitted by the applicant, and the results of any additional medical testing, the examining physician will file a written report with HPRS with the following information:
- (1) Whether the member is totally incapacitated for duty in the employ of the patrol,
 - (2) Whether the incapacity is expected to be permanent, and
 - (3) The cause of the member's incapacity.
- (E) After the examining physician(s)' report(s) is submitted, the medical advisor shall review the entire record and file a written report with HPRS with the following information:
- (1) A recommendation of whether the applicant should be granted disability retirement benefits based on the medical advisor's independent review or the record,
 - (2) Whether the injury or illness was in the line of duty or not in the line of duty,
 - (3) Recommended medical treatment and medical reports.
- The medical advisor's report shall be considered an independent medical opinion.
- (F) When all necessary medical reports and records have been received by HPRS, including the completed application packet, examining physician's report described in paragraph (D) of this rule, and the medical advisor's report / recommendation described in paragraph (E) of this rule, HPRS shall schedule a hearing to be held at the next disability committee meeting. If HPRS does not receive the required information described in this paragraph of this rule at least fourteen days before the next disability committee meeting, the application will be heard at the following scheduled meeting of the disability committee.

(G) No less than fourteen days prior to the hearing, the applicant will be sent notification of:

- (1) The hearing date and time, and
- (2) The right to appear at the hearing, with or without counsel, to present testimony.
- (3) If circumstances warrant it, the notice requirement may be waived upon mutual consent of the applicant and HPRS.

(H) The disability committee hearing will be held in executive session. An audio recording of testimony on behalf of the applicant will be made to provide the disability committee and board with a record for further review, notwithstanding rule 5505-9-07 of the Administrative Code. The disability committee will consider the application packet, the examining physician's report, the recommendation of the medical advisor, and other relevant information.

- (1) Consideration of a member's application by the disability committee and board shall be limited to the disabling condition(s) listed in the application and listed in the attending physician's report as described in paragraph (B)(2) of this rule that are supported by medical documentation provided to HPRS.
- (2) Acts occurring after the application packet is completed and accepted that create new disabling condition(s) or progress the disabling condition(s) described in paragraph (H)(1) of this rule will not be considered by the disability committee or the board. Nothing in this division shall preclude a member from filing a new application for disability benefits.

(I) The disability committee may recommend one or more of the following to the board:

- (1) Approval or denial of the application,
- (2) A finding on whether or not the disability occurred in the line of duty,
- (3) A finding that disability retirement be contingent on compliance with a treatment plan,
- (4) Postpone determination, pending an additional examination, or the submission of additional fact, or
- (5) No decision, if the disability committee cannot agree on a recommendation or acquire a majority vote.

(J) No more than five days after the hearing, the applicant will be sent notification of:

- (1) The disability committee's recommendations,
 - (2) The right to request reconsideration of the disability committee's decision.
- (K) No more than twenty days after the initial hearing, the applicant may file a written request for reconsideration. The written request shall be accompanied by a statement from the applicant, his or her counsel and/or attending physician that the request for reconsideration will be based on evidence contrary to the findings of the examining physician or the committee.
- (1) The request for reconsideration will be considered at the next regularly scheduled meeting of the disability committee unless rescheduled for the reasons outlined in paragraph (K)(2) of this rule.
 - (2) No more than ten days after requesting reconsideration, the member must file new medical evidence relative to the disabling condition(s) considered by the disability committee. The member may request one extension of twenty days to submit new medical information. One additional extension, of no greater than twenty days, will be granted if the member can show, and the medical advisor concurs, that additional time is needed to obtain relevant new medical evidence that is already in progress. If additional extensions are granted, the request for reconsideration will be rescheduled to the next available disability committee meeting. HPRS shall void the request for reconsideration if new medical evidence is not received by HPRS in the time described in this paragraph.
 - (3) Copies of the reports of the examining physician will be sent to the member and the member's agent upon written authorization of the member, unless the release of such reports is otherwise prohibited by law. The medical advisor's recommendation will not, however, be released until the committee has made a recommendation regarding the member's disability application.
 - (4) The disability committee will consider only new medical evidence and new relevant information submitted in support of the request for reconsideration.
 - (5) The applicant has the right to appear at the hearing, with or without counsel, to present new relevant evidence and testimony, and
 - (6) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
- (L) At the conclusion of the reconsideration hearing, the disability committee may recommend one or more of the following to the board:
- (1) Approval or denial of the application,

- (2) A finding on whether or not the disability occurred in the line of duty,
- (3) A finding that disability retirement be contingent on compliance with a treatment plan,
- (4) Postpone determination, pending an additional examination, or the submission of additional fact, or
- (5) No decision, if the disability committee cannot agree on a recommendation or acquire a majority vote.

(M)

- (1) Except as provided in paragraph (M)(2) of this rule, the committee's recommendation will be considered at the next regularly scheduled meeting of the board. The board may adopt or reject the recommendation, in whole or in part, or remand the recommendation to the disability committee for further consideration. Unless requested by the board, an applicant may not appear before the board. The decision of the board is final.
- (2) If the disability committee postpones determination pursuant to paragraph (L)(4) of this rule, no more than five days after the hearing, the applicant will be sent notification of the reason for the postponement and the date the committee will make a final recommendation to the board.

(N) The member will be notified of the board's action no more than ten days after the board meets. If benefits are granted, the member shall be advised of the member's right to:

- (1) Accept the benefit granted; or
- (2) Waive the benefit and continue working
 - (a) No later than thirty days after the board's final action, the member shall elect, on a form provided by the board, either to accept or waive the board's grant of disability benefits.
 - (b) If no such election is made within the thirty day period provided in paragraph (N)(2)(a) of this rule, the award shall be rescinded. If benefits are accepted but the member fails to terminate employment with the state highway patrol within the thirty day period provided in paragraph (N)(2)(a) of this rule, the award shall be rescinded.

(O) As a condition to granting an application for disability benefits, the member shall agree in writing, on a form provided by the board, to obtain any medical treatment

recommended by the examining physician or medical advisor and submit the required medical reports as required by the board.

- (1) 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.
 - (2) Such additional medical treatment must be an allowable medical expense under HPRS' medical expense benefits program.
 - (3) The member shall also agree in writing to provide, upon HPRS' request, any existing medical report relevant to the member's disability.
 - (4) If the member fails to submit a required medical report or does not continue treatment, the member's disability benefit shall be suspended until such report is received by HPRS, the member resumes treatment or the physician providing treatment certifies, and the medical advisor concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated.
- (P) Any subsequent application for a disability benefit filed after a denial of a disability application or termination of previously granted disability benefits shall be submitted with medical evidence, to the satisfaction of the medical advisor, supporting progression of the disabling condition or evidence of a new disabling condition.
- (Q) A member may withdraw an application packet prior to the disability committee's initial recommendation described in paragraph (H) of this rule.

Effective:

Five Year Review (FYR) Dates: 7/23/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 5505.04, 5505.07, 5505.18
Rule Amplifies: 5505.18
Prior Effective Dates: 01/01/1986, 03/28/2002, 03/25/2004, 12/16/2011,
10/27/2012, 03/28/2013, 05/18/2017, 01/18/2018

5505-7-05

Cost of living benefit.

(A) For the purpose of section 5505.174 of the Revised Code and this rule, "pension effective date" means:

- (1) For age and service retirement benefits, the date following the last working date as a member, with no duplication of salary and pension.
- (2) For reduced service retirement benefits and deferred service retirement benefits, the date following the last working date as a member and the date the member is eligible and elects to receive a retirement benefit, with no duplication of salary and pension.
- (3) For disability benefits, the date disability benefits commence, with no duplication of salary and pension.
- (4) For members participating in DROP, pursuant to section 5505.54 of the Revised Code, the effective date of a member's election to participate in DROP.
- (5) For a beneficiary receiving benefits in accordance with section 5505.162 or division ~~(A)(3)~~, ~~(A)(3)(a)~~, ~~(A)(3)(b)~~, ~~(A)(3)(d)~~, (A)(4), (A)(5), (A)(6), or (A)(7) of section 5505.17 of the Revised Code, the date the benefit commences.

(B) For a member or beneficiary with a pension effective date prior to January 7, 2013:

- (1) Prior to January 7, 2013, an annual three per cent cost of living benefit shall be added to the pension allowance of a benefit recipient.
- (2) On or after January 7, 2013, an annual three per cent cost of living benefit shall be added to the pension allowance of a benefit recipient until the cost of living benefit is changed as described in paragraph (B)(3) of this rule.
- (3) The annual cost of living benefit, not to exceed three per cent, shall be determined by the board at its October meeting and shall be based on the actuarial valuation required by section 5505.12 of the Revised Code and the determination shall become effective January first of the following year. Notwithstanding this paragraph, an initial cost of living benefit may be determined by the board at its February, 2013 meeting and shall be based on the actuarial valuation required by section 5505.12 of the Revised Code and the determination shall become effective as determined by the board.
- (4) Notwithstanding paragraph (B)(3) of this rule, an annual three per cent cost of living benefit shall be added to the pension allowance of a benefit recipient sixty-five years of age or older who is receiving a pension not greater than one

hundred eighty-five per cent of the federal poverty level for a family of two persons, as defined by section 5505.174 of the Revised Code.

- (5) A service retirant and DROP participant shall become eligible for a cost of living benefit the later of the first month following the retirant's or DROP participant's fifty-third birthday or the thirteenth month after the benefit commences.
- (6) A disability retirant shall become eligible for a cost of living benefit the earlier of the first month following the retirant's fifty-third birthday or the sixty-first month following the effective date of retirement.
- (7) A beneficiary receiving benefits in accordance with section 5505.162 or division (A)(3), (A)(4), (A)(5), (A)(6), or (A)(7) of section 5505.17 of the Revised Code shall become eligible for a cost of living benefit the thirteenth month after the benefit commences.

(C) For a member or beneficiary with a pension effective date on or after January 7, 2013:

- (1) An annual cost of living benefit determined by the board shall be added to the pension allowance of a benefit recipient.
- (2) The annual cost of living benefit, not to exceed three per cent, shall be determined by the board at its October meeting and shall be based on the actuarial valuation required by section 5505.12 of the Revised Code and the determination shall become effective January first of the following year.
- (3) Notwithstanding paragraph (C)(2) of this rule, an annual three per cent cost of living benefit shall be added to the pension allowance of a benefit recipient sixty-five years or older who is receiving a pension not greater than one hundred eighty-five per cent of the federal poverty level for a family of two persons, as defined by section 5505.174 of the Revised Code.
- (4) A service retirant and DROP participant shall become eligible for a cost of living benefit the later of the first month following the retirant's or DROP participant's sixtieth birthday or the thirteenth month after the benefit commences.
- (5) A disability retirant shall become eligible for a cost of living benefit the later of the first month following the disability retirant's sixtieth birthday or the thirteenth month after the benefit commences.
- (6) A beneficiary receiving benefits in accordance with section 5505.162 or division ~~(A)(3)~~, (A)(3)(a), (A)(3)(b), (A)(3)(d), (A)(4), (A)(5), (A)(6), or (A)(7) of section 5505.17 of the Revised Code shall become eligible for a cost of living

benefit the later of the first month following the beneficiary's sixtieth birthday or the thirteenth month after the benefit commences.

- (D) The pension allowance that a benefit recipient is receiving upon cost of living benefit eligibility shall become the base pension upon which all future cost of living increases are calculated, unless a new base amount is established.
- (E) The date of the first cost of living increase shall be the anniversary date for any future cost of living increases.

Effective:

Five Year Review (FYR) Dates: 7/23/2018

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.174
Prior Effective Dates: 01/01/1986, 11/02/1989, 12/01/1994, 10/01/1996,
03/27/2006, 02/19/2013

ACTION: No Change

DATE: 07/23/2018 2:25 PM

5505-7-10

Employee contributions.

- (A) For the purpose of this rule, “employee contribution rate” shall mean the percentage of the member's annual salary required to be submitted to the state highway patrol retirement system (HRPS) pursuant to division (A) of section 5505.15 of the Revised Code.
- (B) An annual employee contribution rate, not to be less than ten per cent or exceed fourteen per cent, shall be determined by the board as it considers necessary to meet the amortization period requirement of section 5505.121 of the Revised Code at its October meeting and shall be based on the actuarial valuation required by section 5505.12 of the Revised Code.
- (C) The employee contribution rate determined at the board’s October meeting shall be effective the first day of the first full two week pay period of the following year.

Five Year Review (FYR) Dates: 7/23/2018 and 07/23/2023

CERTIFIED ELECTRONICALLY

Certification

07/23/2018

Date

Promulgated Under:	111.15
Statutory Authority:	5505.07
Rule Amplifies:	5505.15
Prior Effective Dates:	09/16/2013