



Ohio Administrative Code

Rule 742-3-20 Statutory termination of disability benefits.

Effective: [September 22, 2022](#)

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

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

(1) A sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force established under division (D) of section 3735.31 of the Revised Code, or township constable or a similar job position outside the state of Ohio;

(2) A railroad company police officer governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;

(3) A person engaged in the enforcement of Chapter 5743. of the Revised Code on behalf of the department of taxation and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code or a similar job position outside the state of Ohio;

(4) An undercover drug agent or a similar job position outside the state of Ohio;

(5) A department of public safety enforcement agent governed by section 5502.14 of the Revised Code or a similar job position outside the state of Ohio;

(6) A natural resources law enforcement staff officer in the department of natural resources governed by section 1501.013 or a similar job position outside the state of Ohio;



- (7) A forest-fire investigator in the department of natural resources governed by section 1503.09 of the Revised Code or a similar job position outside the state of Ohio;
- (8) A natural resources officer on the department of natural resources governed by section 1501.64 of the Revised Code or a similar job position outside the state of Ohio;
- (9) A wildlife officer in the department of natural resources governed by section 1531.13 of the Revised Code or a similar job position outside the state of Ohio;
- (10) A park district law enforcement officer governed by section 511.232 or 1545.13 of the Revised Code or a similar job position outside the state of Ohio;
- (11) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- (12) A member of a hospital police or security department governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (13) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- (14) A member of a qualified nonprofit corporation police department established by section 1702.80 of the Revised Code or a similar job position outside the state of Ohio;
- (15) A state university law enforcement officer governed by section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (16) A special police officer in the department of mental health governed by section 5119.08 of the



Revised Code or a similar job position outside the state of Ohio;

(17) A special police officer in the department of mental retardation and developmental disabilities governed by section 5123.13 of the Revised Code or a similar job position outside the state of Ohio;

(18) A member of a campus police department established under section 1713.50 of the Revised Code or a similar job position outside the state of Ohio;

(19) A regional transit authority police officer governed by division (Y) of section 306.35 of the Revised Code or a similar job position outside the state of Ohio;

(20) An investigator of the auditor of state governed by section 117.091 of the Revised Code who is engaged in the enforcement of Chapter 117. of the Revised Code or a similar job position outside the state of Ohio;

(21) A special police officer serving on state property pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;

(22) A port authority special police officer governed by section 4582.04 or 4582.28 of the Revised Code or a person serving as a port authority special police officer on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;

(23) A municipal corporation special police officer who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is serving at a municipal airport or other municipal air navigation facility that is governed by aviation security rules of the transportation



security administration of the United States department of transportation and required by federal laws and regulations to be under a security program or a similar job position outside the state of Ohio;

(24) A PERS law enforcement officer, as defined in section 145.01 of the Revised Code or a similar job position outside the state of Ohio; or

(25) A bailiff or deputy bailiff of a court of record in this state who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code or a similar job position outside the state of Ohio;

(26) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;

(27) An employee of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section;

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

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

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

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



Revised Code or such corresponding statutory provision.

(D)

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

(E) Process for termination of disability benefits.

For any termination of disability benefits under section 742.40 of the Revised Code, staff shall present the termination for review and consideration by the disability committee, who shall make a written recommendation to the board of trustees based upon the applicable criteria. The applicable disability benefit recipient shall be notified of the board's decision within thirty days after the board's action and such notice shall be sent by certified mail, return receipt requested. The disability benefit recipient shall also be notified of the right to appeal the termination of disability benefits and the right to convert the disability benefits to a service retirement pension if the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code are met and an application for service retirement is filed with OP&F.

(F) Appeal of termination of disability benefits.

(1) Any disability benefit recipient aggrieved by an action of the board with respect to the termination of the disability benefits in accordance with division (C)(3) of section 742.40 of the Revised Code must file a written notice of appeal with OP&F in the form provided by OP&F within ninety days of the notice of the board's decision to terminate the disability benefits. The notice of appeal must contain the member's name, social security number, and a brief description of the decision upon which the appeal is based.

(2) Within sixty days of the notice of the board's decision to terminate the disability benefits, the aggrieved disability benefit recipient ("appellant") shall file with OP&F all materials which he or she



desires to submit in support of the appeal. Failure to submit supporting materials or to request an extension of time within which to submit the supporting materials will be sufficient cause for OP&F to dismiss the appeal, provided OP&F gives the appellant prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the appellant fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, OP&F may, for good cause shown, grant the appellant an extension of sixty days within which to file supporting materials.

(3) Upon receipt of the supporting materials, OP&F shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time, and place thereof in writing. Such hearings shall be held within sixty days of the receipt of the supporting documentation by OP&F; provided, however, that any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. In no event shall a hearing be postponed more than three times, and in no event shall the postponements, in the aggregate, exceed one year. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A tape recording of the hearing will be made to provide the board with a record for further review. Such tape recording of the hearing shall be available to the appellant and to those individuals who are authorized by the appellant to receive such information, with such authorization in the form required by OP&F.

(4) Following the hearing on appeal, the board may choose to:

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

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

(5) The applicant shall be advised of the board's action under paragraph (F)(4) of this rule within



thirty days after the boards decision and such notice shall be sent by certified mail, return receipt requested.

(G) For purposes of recovering overpaid disability benefits, OP&F shall collect those benefits from the later of April 1, 2004 or the date of the persons acceptance of employment that results in the statutory termination of disability benefits, which will apply to any termination of disability benefits under section 742.40 of the Revised Code and this rule prior to the effective date of this rule.

(H) For disability benefit recipients who are terminated in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, who cannot convert the benefits to a service retirement pension, and who have not recovered all contributions received by OP&F that are paid by or on behalf of such person, OP&F shall offset the remaining contributions against any overpayment due OP&F in accordance with the provisions of this rule.

(I) For any overpayments due OP&F as a result of the termination of benefits in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, OP&F shall require the member to sign a promissory note, which provides for equal monthly payments to be paid to OP&F over a period not to exceed five years, with interest paid at the current actuarial rate of interest. For any person who refuses to sign such promissory note, OP&F will seek to recover the amounts due by exercising all rights available by law.

(J) In the event the payments required under paragraphs (H) and (I) of this rule exceed the limits provided for in the consumer credit protection act, the payments will be modified in order to comply with such limits. Payments may also be modified upon a showing of a financial hardship and in such amount as determined by the executive director.