



DEC 04 2009

Jeffrey L. Ezell
Executive Director

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December 1, 2009

To: TRS Reporting Employers
House Retirement Committee Members
Senate Retirement Committee Members
All Interested Parties

From: Jeffrey L. Ezell
Executive Director

Re: Proposed Amendment of TRS Policy

In its meeting held October 28, 2009, the Administrative Procedures Committee of the TRS Board of Trustees voted to amend the following policy under the authority of O.C.G.A. § Section 47-3-26(b).

Administrative Rule 513-5-1-.57. - Disability Retirements; Re-Examinations: The proposed amendment states that re-examinations of disability retirees will be in accordance with the provisions of O.C.G.A. § 47-3-122. Current policy states that disability retirees will be re-examined yearly.

The TRS Board of Trustees plans to vote on the adoption of the amended policy at their meeting on January 27, 2010. The meeting is scheduled to begin at 10:30 a.m. in the TRS Conference Room, 1st Floor, Beta Building, Two Northside 75, Atlanta, Georgia 30318.

All TRS reporting employers are required by law [O.C.G.A. 47-1-10(b)(1)] to post this notice on bulletin boards for your employees and take reasonable steps to assure that members of this System are apprised of the proposed change to TRS policy.

The current and proposed policies, along with a copy of the applicable Georgia law, are attached. Objections to the proposed policy change must be submitted in writing and addressed to:

Board of Trustees
Teachers Retirement System of Georgia
Two Northside 75, Suite 100
Atlanta, GA 30318

JLE/arr

Attachments

DISABILITY RETIREMENTS; RE-EXAMINATIONS

Motions adopted that if two Medical Board members are for retirement and one Medical Board member is against retirement, member will be retired with the provision that member be re-examined at the end of one year.

If two Medical Board members are against retirement and one is for retirement, member will not be retired. (Adopted 9-23-53) Administrative Rule 513-5-1-.57.

DISABILITY RETIREMENTS - RE-EXAMINATIONS

If two Medical Board members are for retirement and one Medical Board member is against retirement, member will be retired with the provision that member be re-examined in accordance with the provisions of O.C.G.A. § 47-3-122.

If two Medical Board members are against retirement and one is for retirement, member will not be retired. (Adopted 9-23-53; Amended January 27, 2010) Administrative Rule 513-5-1-.57.

§ 47-3-122. Eligibility and application for disability benefits; amount of disability benefits; reexamination of recipients; reduction

(a) Any member who is in service or on authorized leave may retire on disability upon written application to the board of trustees if the member has at least ten years of creditable service at the time of retirement and if the member's application for disability retirement is approved by the medical board. The medical board shall approve the application if, after a medical examination of such member by a qualified physician appointed by the board of trustees, it finds that the applicant is mentally or physically incapacitated for further performance of duty involving active membership with the retirement system, that such incapacity is likely to be permanent, and that the applicant should be retired. The effective date of retirement will be the first of the month in which the application is received by the board of trustees, provided that no retirement application will be effective earlier than the first of the month following the final month of the applicant's employment. Applications for retirement will not be accepted more than 90 days in advance of the effective date of retirement.

(a.1) If the board of trustees determines by clear and convincing evidence presented to the board by or on behalf of the member that the disability itself was the cause of failure to file a timely application for disability retirement, the board of trustees is authorized to calculate the annual benefit provided for in subsection (c) of this Code section as if the member had retired on such effective date of disability retirement increased by any increases in benefits which the member would have received if he or she had retired on that date and adjust the benefits of such retiree as of the first of the month following such determination; provided, however, that the board of trustees is not authorized to pay retroactive disability benefits. This subsection applies to former members who became disabled at any time prior to July 1, 1996, as well as to former members who become disabled on or after July 1, 1996.

(b) If a disabled member qualifies for either service retirement or disability retirement, he shall receive the greater amount.

(c) The disability benefit allowance shall consist of:

(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement derived through the application of disability actuarial mortality tables approved by the board of trustees; and

(2) An annual pension computed under the formula set forth in subsection (a) of *Code Section 47-3-120*, but with no reduction in benefits set forth in subsection (b) of *Code Section 47-3-120* for retirement under the age of 62.

(d) If a member who has retired on a disability retirement allowance elects an option under *Code Section 47-3-121* rather than the maximum allowance, then the member will receive a reduced retirement allowance based on actuarial disability mortality tables adopted by the board of trustees. The nearest whole year of the attained ages of both the retiring member and his designated beneficiary at the date of his retirement shall be used in the application of such actuarial tables in order to determine the monthly retirement benefits.

(e) Once each year during the first five years following retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may require a disability beneficiary who has not yet attained age 62 to undergo a

medical examination, such examination to be made at his place of residence or other place mutually agreed upon, by a physician or physicians designated by the medical board. Such beneficiary may himself request such an examination. If any disability beneficiary who has not yet attained age 62 refuses to submit to such medical examination, his pension may be discontinued by the board of trustees until his withdrawal of such refusal; and if his refusal continues for one year, all his rights in and to his pension may be revoked by the board of trustees.

(f) If it is determined that a disability beneficiary is engaged in a gainful occupation or if the medical board reports and certifies to the board of trustees that a disability beneficiary is able to engage in a gainful occupation paying more than the difference between his disability retirement benefit and the current rate of compensation for the position which he held at the time of his disability retirement, the board of trustees may reduce his retirement benefit to an amount at which his total retirement benefit together with the amount earnable by him equals the current rate of compensation for the position which he held at the time of his disability retirement, as determined by the board of trustees. The board of trustees may make further changes in his disability benefit in response to further change in his earning capacity, provided that the new pension shall not cause the total of his disability retirement benefit together with the amount earnable by him to exceed the current rate of compensation, as determined by the board of trustees, for the position which he held at the time of his disability retirement.

HISTORY: Ga. L. 1943, p. 640, § 5; Ga. L. 1950, p. 261, § 5; Ga. L. 1953, Jan.-Feb. Sess., p. 373, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 114, §§ 2, 3; Ga. L. 1956, p. 400, § 1; Ga. L. 1961, p. 392, § 3; Ga. L. 1963, p. 542, § 2; Ga. L. 1965, p. 267, §§ 1, 2; Ga. L. 1965, p. 438, § 5; Ga. L. 1969, p. 388, § 2; Ga. L. 1970, p. 217, §§ 3, 4; Ga. L. 1972, p. 140, § 3; Ga. L. 1972, p. 896, § 3; Ga. L. 1973, p. 905, § 1; Ga. L. 1974, p. 1023, §§ 3, 4; Ga. L. 1982, p. 3, § 47; Ga. L. 1992, p. 2180, § 1; Ga. L. 1993, p. 86, § 1; Ga. L. 1996, p. 302, § 1.