

OSERS Disability Retirement Policy & Procedures

Governing Law (as amended from time to time)

Nebraska Revised Statutes, Section 79-9,105. Employees retirement system; member; disability; benefits.

Policy

POLICY – REVIEWING DISABILITY RETIREMENT APPLICATIONS

1. The Board of Trustees will review disability retirement applications in a manner consistent with the governing law.
2. The Executive Director will ensure disinterested physicians have conducted a medical examination on any member of the Omaha School Employees' Retirement System ("OSERS") that applies for disability retirement benefits. The Executive Director shall present the physician's confidential report and accompanying documentation, and a recommendation on whether to approve the disability retirement application, to the Board.
3. The Board may re-evaluate any approved disability retirement application once per year from the disability retirement effective date; and every 18 months thereafter unless the Board wishes to re-evaluate an individual's disabled status more frequently. However, the Board may not require proof of disability more frequently than semiannually.
4. Information provided in disability retirement applications includes medical records and other personal and sensitive information that if released may do significant harm to an applicant's interests or needless harm to an applicant's reputation. Therefore, all reviews of members' disability applications shall take place in Executive Session. All information reviewed by the Board of Trustees or the Board's agents shall be kept confidential.
5. The Board will accept an application for disability retirement initiated by the member, or the member's legal representative.
6. The certification of disability shall be made by two licensed and practicing physicians who practice in the state of Nebraska. If at the time the Member is making application for a disability retirement is located outside of Nebraska, at the Board's discretion, the Board may engage the services of other licensed and practicing physicians to complete the process. If a physician is selected by a member, the member shall be responsible for the cost of the physician services. Otherwise, OSERS shall be responsible for the cost.

Procedure

A member of the Omaha School Employees' Retirement System with five or more years of creditable service as defined in governing law, or their legal representative may make application to the Board of

Adopted:

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Trustees for a disability retirement for the member by first executing a “Disability Retirement Request Form”

Upon receiving inquiry from a Member of OSERS on disability retirement, OSERS staff will send the Member (or the legal representative) the following three documents: (1) copy of the “How To Apply For An OSERS Disability Retirement”; (2) a copy of the “OSERS Disability Retirement Request Form”; and (3) a copy of Nebraska Revised Statutes, section 79-9, 105 (as amended). Collectively these documents will be posted to the OSERS website as a “Disability Retirement Application Package”.

The Member making application for a disability retirement must file with the Executive Director of OSERS the following documents: (1) OSERS Disability Retirement Request Form; and (2) a letter, acceptable to the Board, from the Member’s licensed and practicing physician attesting that the Member is totally disabled from further performance of duty.

Within 14 calendar days after receiving the Member’s disability request form and a statutorily compliant letter from the Member’s physician, the Executive Director will send notice to one of the Board’s physicians authorizing the Member to make an appointment to be examined for a disability determination by the Board’s physician. The member shall be responsible for the cost of the physician's examination where the physician is selected by the member. OSERS will be responsible for the cost of the Board’s physician’s examination.

Upon the completion of a disability application file, the Executive Director shall present said case to the Board of Trustees during a regularly scheduled Board of Trustees meeting in closed session.

The Executive Director will report to the Board whether the application for disability retirement is for a disability retirement or is for a deferred disability retirement.

The type of disability retirement shall be recorded in the minutes if the Board takes action from the closed session deliberations.

Annually at the August Board of Trustees meeting, the Executive Director shall report to the Board of Trustees the following statistics on disability retirements:

- a. Number of disability retirements in pay status
- b. Number of disability retirements in deferred disability status with count to either age 65 or cap at 35 years of service
- c. Number of deferred disability applications closed due to attaining age 65 or at the request of the member
- d. Number of disability retirement applications still open

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Omaha School Employees' Retirement System

DISABILITY RETIREMENT REQUEST FORM

DATE: _____

Name: _____

OPS Employee ID #: _____

I hereby make application for consideration of a disability retirement pursuant to the Nebraska Revised Statutes, section 79-9, 105.

Upon completion of the application process, and upon approval by the Board of Trustees, I am requesting a disability retirement with the following payment status:

- Immediate payment status following approval by the Board of Trustees; or,
- Deferred disability payment status following approval by the Board of Trustees. I understand and acknowledge that credit for years of service and portions thereof shall begin the first day of the month following the first physician certification of disability accepted by the Board of Trustees and continuing until the earlier of: (1) commencement of pension payments, or (ii) attainment of age 65. I further understand that my credited service may not exceed 35 years.

I understand my application for disability retirement and all supporting documentation will be incomplete and no action will be taken by the Board of Trustees with respect to the determination of whether I am disabled if I have not provided all the necessary documentation to the Omaha School Employees' Retirement System within 90 calendar days from the date of this application. I further understand that I am responsible for all cost, fees, payments, and expenses associated with obtaining statements of disability from two licensed and practicing physicians.

Your Initials Here: _____

I acknowledge receipt of Nebraska Revised Statutes, section 79-9, 105 which is printed on the back of this application.

Signature: _____

Adopted: _____

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Nebraska Revised Statutes, Section 79-9,105.

Employees retirement system; member; disability; benefits.

(1) Any member with five or more years of creditable service, excluding years of prior service acquired pursuant to section 79-990, 79-991, 79-994, 79-995, or 79-997, who becomes totally disabled for further performance of duty on or after March 22, 2000, may be approved for deferred disability retirement by the board of trustees. In the case of such deferred disability retirement, the member, during the period specified in subsection (3) of this section, shall be credited with creditable service for each year or portion thereof, to be determined in accordance with policies of the board of trustees governing creditable service, that the member defers retirement, up to a maximum of thirty-five years of total creditable service, including creditable service accrued before the member became totally disabled. The member approved for deferred disability retirement may at any time of the member's choosing request the deferral to end and retirement annuity payments to begin. The retirement annuity of such member shall be based on the total number of years of the member's creditable service, including the years credited to the member during his or her total disability under this section, and the member's final average salary as of the date that the member became totally disabled and as adjusted from such date by a percentage equal to the cumulative percentage cost-of-living adjustments that were made or declared for annuities in pay status pursuant to section 79-9,103 after the date of the approval of the board of trustees for deferred disability retirement and before the cessation of the accrual of additional creditable service pursuant to subsection (3) of this section. Except as provided in subsection (4) of this section, the retirement annuity so determined for the member shall be payable to the member without reduction due to any early commencement of benefits, except that the retirement annuity shall be reduced by the amount of any periodic payments to such employee as workers' compensation benefits. Additional creditable service acquired through deferred disability retirement shall apply to the service requirements specified in section 79-9,106. The board of trustees shall consider a member to be totally disabled when it has received an application by the member and a statement by at least two licensed and practicing physicians designated by the board of trustees certifying that the member is totally and presumably permanently disabled and unable to perform his or her duties as a consequence thereof.

(2) Notwithstanding the provisions of subsection (1) of this section, the payment of the retirement annuity of a member may not be deferred later than the member's required beginning date as defined in section 401(a)(9) of the Internal Revenue Code, as defined in section 49-801.01. If the

payment of a disabled member's retirement annuity is required to commence before the member has elected to end his or her deferred disability retirement, the amount of benefit that would have accrued pursuant to subsection (1) of this section in the fiscal year of the member's required beginning date, and in each subsequent fiscal year through the year of the member's election to end the deferred disability retirement period, shall be reduced, but not below zero, by the actuarial equivalent of the payments which were paid to the member during each such fiscal year and after the member's required beginning date. The retirement annuity of any member that commences before the end of the member's deferred disability retirement shall be adjusted as of each September 1 pursuant to the requirements of this subsection.

(3) The accrual of creditable service and any adjustment of final average salary provided in subsection (1) of this section shall begin from the first day of the month following the date of the first of the two examinations by which the member is determined by the board of trustees to be totally disabled, shall continue only so long as the member does not receive any wages or compensation for services, and shall end at the earlier of (a) the time total disability ceases as determined by the board of trustees or (b) the date the member elects to end the deferred disability retirement and begin to receive his or her retirement annuity. The board of trustees may require periodic proof of disability but not more frequently than semiannually.

(4)(a) For an employee hired prior to July 1, 2018, the payment of any retirement annuity to a disabled member, which begins to be paid under this section (i) before the member's sixty-second birthday or (ii) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board of trustees determines at any time before the member's sixty-second birthday that the member's total disability has ceased.

(b) For an employee hired on or after July 1, 2018, the payment of any retirement annuity to a disabled member, which begins to be paid under this section (i) before the member's sixty-fifth birthday or (ii) at a time before the sum of the member's attained age and creditable service is eighty-five or more, shall be suspended if the board of trustees determines at any time before the member's sixty-fifth birthday that the member's total disability has ceased.

(c) Payment of the retirement annuity of such member as determined under this section shall recommence at the member's early retirement date or normal retirement date but shall be subject to reduction at such time as specified in section 79-9,100.

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How To Apply For An OSERS Disability Retirement

- 1. It is the Member's responsibility to obtain a letter from a licensed and practicing physician attesting that the Member is totally disabled from performing his/her duties.**
- 2. The Member will then file an OSERS Disability Retirement Request Form and the Member's letter from his/her licensed and practicing physician attesting to the Member's total disability from performing his/her duties.**
- 3. After receiving the application and statutorily compliant letter from the Member, the OSERS office will give notice to the OSERS Board's physician to permit the Member to make an appointment for evaluation of the Member's disability.**
- 4. Upon receiving an evaluation from the Board's physician, the Executive Director will ensure the Member's disability retirement request is an agenda item at the next regularly scheduled Board of Trustees meeting. [Note: these matters are handled in closed session]**
- 5. Within seven calendar days following the Board meeting, the Board's decision will be communicated to the Member.**
- 6. If the Member elects to appeal the Board decision, the Member will be responsible for all cost and actions associated with an appeal.**

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