

742-1-02

**Member minimum medical testing and diagnostic procedures.****(A) Requirements.**

Pursuant to section 742.38 of the Revised Code, all employers of prospective members of the Ohio police and fire pension fund (OP&F) are required to do the following:

**(1) Physical examination for prospective OP&F members.**

The employer shall cause the prospective members of OP&F to submit to a physical examination which includes the minimum medical testing and diagnostic procedures set forth in paragraph (B) of this rule.

**(2) Tests done before employee's membership in OP&F.**

The physical examination which includes the minimum medical testing and diagnostic procedures prescribed by this rule must be done no later than eleven fifty-nine p.m. on the date the employee becomes an OP&F member, but in no event can the tests and procedures be done earlier than nine months before that membership date, ~~subject to the notice of deficiency and right to cure referenced in paragraph (D) of this rule.~~

**(3) Physician's report filed with OP&F.**

The employer must file a physician's report with OP&F that meets the following criteria:

- (a) The physician certification must be in the form prescribed by OP&F or a form substantially similar, as determined by OP&F in its sole and absolute discretion, which must include the physician's diagnosis and evaluation of the existence of any heart disease, cardiovascular disease, or respiratory disease identified in the medical testing and diagnostic procedures established under this rule. The physician certification must be fully completed and signed by a licensed physician who is licensed to practice medicine in the state in which the examination was conducted, and the physician certification must state the date of the examination and the report cannot be signed more than nine months before the potential employee's membership with OP&F;
- (b) The member's medical questionnaire completed by the member must be in the form prescribed by OP&F or a form substantially similar, as determined by OP&F in its sole and absolute discretion, but this questionnaire cannot be signed more than nine months before the potential employee's membership with OP&F; and

(c) From and after the effective date of this rule, copies of the medical tests and procedures and medical questionnaire outlined in this rule must be included as part of the physician's report.

(4) The physician's report must be timely filed with OP&F.

In order to be timely filed, a properly completed physician certification, medical questionnaire meeting the criteria of this rule, and copies of the required medical testing and diagnostic procedures outlined by this rule, must be received by OP&F no later than sixty days after the employee becomes an OP&F member, as required by division (A)(2) of section 742.38 of the Revised Code.

(B) Minimum medical testing/diagnostic procedures.

The minimum medical testing and diagnostic procedures to be incorporated into a member's physical examination administered by physicians to prospective members of the fund shall include the following:

- (1) Spirometry that represents at least a valid and reproducible forced expiratory volume at one second (FEV1), forced vital capacity (FVC), and forced expiratory volume at one second/forced vital capacity (FEV1/FVC) that meets the criteria of the American thoracic society;
- (2) A chest x-ray that is at least a P.A. 72" (i.e. front to back);
- (3) Lipid profile that includes total cholesterol, triglycerides, LDL cholesterol, and HDL cholesterol; and
- (4) A cardiac stress test performed consistent with standard Bruce protocol that includes an electrocardiogram (EKG).

(C) Determination of OP&F membership.

For purposes of administering section 742.38 of the Revised Code and this rule, OP&F will use the occurrence of the following events for purposes of determining when a prospective employee becomes an OP&F member:

- (1) The member's appointment as a "member of the police department" or "member of the fire department," as such terms are defined in divisions (A)(2) and (B)(2) of section 742.01 of the Revised Code respectively; and

- (2) The date on which the prospective member became a "member of the fund," as defined in division (E) of section 742.01 of the Revised Code; and
- (3) The first date on which the employee is contributing or should have been contributing a percentage of his/her salary to OP&F.

For purposes of this paragraph, OP&F shall consider the first date the employee is contributing a percentage of his/her salary to OP&F to be based on payroll submitted for a pay period six weeks prior to the filing of such payroll, until the actual date is determined by OP&F and at that time, an adjustment of the penalties shall thereafter be made based on the actual dates provided to OP&F by the employer on the OP&F personal history record form.

~~(D) For purposes of imposing fines and penalties, OP&F shall use the following criteria:~~

- ~~(1) If the employer timely filed with OP&F a properly completed certification and copies of at least two of the required tests and diagnostic procedures outlined in this rule, but which cannot include the member's medical questionnaire, then OP&F will provide the employer with notice of any deficiency in its filing along with an opportunity to cure these items within one hundred eighty days from the date of OP&F's notice (referred to in this paragraph as the cure period).~~
  - ~~(a) If OP&F receives copies of all of the items referenced in OP&F's notice of deficiency on or before the expiration of the cure period, then no fines will be imposed; or~~
  - ~~(b) If OP&F does not receive from the employer all of the items referenced in OP&F's notice of deficiency within one hundred eighty days from OP&F's notice, then OP&F will assess the statutory fine from the date that the report was originally due OP&F, as required by the terms of section 742.38 of the Revised Code, until the employer files the required documentation with OP&F, subject to the caps provided for in division (A) of section 742.353 of the Revised Code and rule 742-8-08 of the Administrative Code.~~
- ~~(2) If the employer is not eligible to correct deficiencies through a cure period as referenced in paragraph (D)(1) of this rule, then OP&F will assess the statutory fine from the date that the report was originally due OP&F, as required by section 742.38 of the Revised Code until OP&F's receipt of a properly completed physician's report which includes a properly completed physician certification, medical questionnaire meeting the criteria of this rule, and copies of the required medical tests and procedures outlined in this rule, subject to the caps provided for in rule 742-8-08 of the Administrative Code.~~

- ~~(E)~~ For purposes of this rule, if the physician certification is in proper format, as outlined in paragraph (A) of this rule, the medical questionnaire is complete, and copies of all of the tests and procedures outlined in paragraph (B) of this rule are filed with OP&F, but are not filed within sixty days from the date on which the employee became an OP&F member, as outlined in this rule, then OP&F must assess the fine prescribed by section 742.38 of the Revised Code.
- ~~(F)~~ For purposes of this rule, OP&F will provide the employer with only one one hundred eighty day cure period during which the employer must file a properly completed physician's report, which means the physician certification in the form approved by OP&F and copies of all tests and diagnostic procedures outlined in paragraph (B) of this rule, that must be filed with OP&F prior to the expiration of such cure period.
- ~~(G)~~ If the employer cannot cure the deficiency due to the member terminating employment with the employer or transferring to another department, OP&F will assess the fine through the earlier of the date of termination or transfer or the date on which the employer complied with the terms of section 742.38 of the Revised Code, as more fully described in this rule, subject to the caps provided for in division (A) of section 742.353 of the Revised Code and rule 742-8-08 of the Administrative Code. In order to make this determination, the employer shall provide OP&F with certification of the date of the termination or transfer.
- ~~(H)~~(D) For members who are reinstated to OP&F membership by agreement or by order of a court or arbitrator, no new pre-employment physical will be required. In order to make this determination, the employer shall provide OP&F with a copy of the agreement or court order.
- ~~(I)~~(E) In cases where the person was laid off from an OP&F covered employer and the person already has a proper pre-employment physical on file with OP&F and returns to an OP&F covered position within two years of the effective date of his/her lay-off and accumulated member contributions remain on deposit with OP&F, no additional pre-employment physical will be required.
- ~~(J)~~(F) For members who transfer from one employer to another without a loss in membership with OP&F, as outlined above, the new employer will not be required to cause such person to undergo the medical testing and diagnostic procedures referenced in this rule, unless the person became an OP&F member on or after September 16, 1998 and OP&F does not have a pre-employment physical on file that meets the definition set forth in section 742.38 of the Revised Code. In order to reach this determination, however, the new employer will need to obtain this information from OP&F. In the event the original employer did not cause an employee who became an OP&F member on or after September 16, 1998 to undergo all of the tests and procedures outlined in this rule, then OP&F will give notice to the new employer of any tests and procedures that need to be completed

and this documentation must be received by OP&F no later than sixty days after the new hire date, ~~subject to the right to cure, as provided for in this rule.~~

~~(K)~~(G) In no event shall the provisions of this rule be intended to supercede or eliminate any other legal requirement imposed on the employer under Ohio law, including, but not limited to, sections 124.41 and 124.42 of the Revised Code.

~~(L)~~(H) If the employer is unable to obtain a test due to the member's medical condition, the member's religious beliefs or the member's refusal to undergo a specific test, the employer shall provide supporting documentation to OP&F in support of such fact and may request a waiver of such test or report for such reason. If the waiver request is for medical reasons, the supporting documentation shall be in the form of a medical report signed by a licensed physician in the state in which the medical examination was conducted, if the waiver request is for religious reasons, the supporting documentation shall be in the form of an affidavit signed by the member before a notary public that certifies such fact, and if the waiver request is the result of the member's refusal, the supporting documentation shall be in the form of a written document signed by the member before a notary public that certifies that fact and acknowledges that the member understands that his/her refusal shall result in his/her inability to use the presumptive disability provision outlined in section 742.38 of the Revised Code.

Within thirty days after OP&F's receipt of such request, OP&F shall notify the employer if such waiver is granted. If OP&F grants a waiver, the employer shall not be obligated to cause such person to undergo the specific tests specified in such waiver.

Any waiver granted under the terms of this section shall result in the member's inability to use the presumptive disability provisions outlined in section 742.38 of the Revised Code ~~and shall not change the number of tests that are required to be filed with OP&F in order for such employer to be granted an opportunity to cure any other deficiencies in such filing or any penalty for late filings of the other reports related to such member.~~

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Certification

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Date

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10/13/2005, 01/17/2011

742-4-01                    **General DROP definitions.**

Capitalized terms used in rules 742-4-01 to 742-4-19 of the Administrative Code shall have the following meaning:

- (A) "Average Annual Salary" is defined in division (G) of section 742.01 of the Revised Code.
- (B) A "DROP Participant" shall mean an eligible member who files the election (as hereinafter defined) with OP&F and the election has been fully completed and properly completed by the member.
- (C) "OP&F" shall mean the Ohio police and fire pension fund created under Chapter 742. of the Revised Code.
- (D) "DROP Benefit" shall mean the benefit calculated for a DROP participant in accordance with the provisions of section 742.442 of the Revised Code and rule 742-4-06 of the Administrative Code, but subject to the provisions of division (C) of section ~~742.442~~742.444 and section 742.445 of the Revised Code.
- (E) "Effective Date" is defined in rule ~~742-4-07~~742-4-03 of the Administrative Code.
- (F) "Election" shall mean the election form that OP&F requires in order for a member to participate in DROP, as such form may be amended or modified from time to time by OP&F. For those elections that have been filed with OP&F, it shall also mean the fully and properly completed required election that is signed by the member.
- (G) "Employer's First Payroll Reporting Period" shall mean the first day of the employer's first payroll reporting period reported to OP&F under section 742.32 of the Revised Code that immediately follows the DROP participant's effective date, as determined by OP&F according to its books and records.
- (H) "Family Medical Leave Act" is defined in rule ~~742-4-14~~742-4-12 of the Administrative Code.
- (I) "Member" shall have the meaning set forth in division (E) of section 742.01 of the Revised Code, as more fully explained in divisions (A)(2) and (B)(2) of section 742.01 of the Revised Code ~~and rule 742-5-03 of the Administrative Code.~~
- (J) "Retirement Allowance" is defined in division (I) of section 742.01 of the Revised Code, as more fully described in rule ~~742-4-12~~742-4-17 of the Administrative Code.

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742-4-03

**Effective date of DROP election.**

- (A) Unless the member has properly rescinded his/her DROP election or the terms of paragraph (B) of this rule apply, the "Effective Date" of an eligible member's election to participate in DROP shall be the later of:
- (1) The first day of the employer's first payroll reporting period that immediately follows OP&F's receipt of the election, but if the payroll reporting period end date falls on the thirtieth day of the month, the first day of the employer's first payroll reporting period shall be the first day of the next month; or
  - ~~(2) January 2, 2003; or~~
  - ~~(3)(2) The date on which the member is eligible to participate in DROP, as determined by OP&F based on its books and records.~~
- (B) For those members who file an election to participate in DROP with OP&F and do not properly rescind his/her election according to the terms of rule 742-4-04 of the Administrative Code, but do not meet the age or service requirements of division (C)(1) of section 742.44~~742.37~~ of the Revised Code, the member shall still be considered "eligible to retire" for the purpose of electing to participate in DROP according to the terms of section 742.44 of the Revised Code only if the member's eligibility to participate in DROP is not more than ninety days after the date on which OP&F received the member's election, as determined by OP&F's books and records. In the event the member's first eligibility date to participate in DROP is more than ninety days after the date on which OP&F received the member's election, as determined by OP&F's books and records, the member shall not be considered "eligible to retire" according to the terms of section 742.44 of the Revised Code and his/her the member's election shall be null and void and of no force and effect. ~~For example, if the member files his election to participate in DROP on January 3, 2003, but he is not eligible to retire under division (C)(3) of section 742.37 of the Revised Code until March 2003, the member shall be "deemed eligible to retire" for purposes of filing the election, even though his eligibility date would not be until March 2003. On the other hand, if the member's first retirement eligibility date under division (C)(3) of section 742.37 of the Revised Code is not until May 2003, then the member shall not be deemed "eligible to retire" and the member's election shall be null and void and of no force and effect.~~
- (C) In the event a member's election is invalid, as outlined in paragraph (B) of this rule, the member shall not be foreclosed from filing a subsequent election to participate in DROP. In all events, however, the member has only one opportunity to participate in DROP.
- (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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742-5-01

**Definition of service credit.**

- ~~(A) Years of service and years of active service accumulated by members of the fund for calculation of benefits and pensions was broadly interpreted to include part-time service in a police or fire department;~~
- ~~(B)~~(A) Years of service and years of active service shall mean years of full-time service, including a full-time appointment to the position as a police officer or firefighter, for which retirement contributions are deducted from "salary," as such term is defined in section 742.01 of the Revised Code and rule 742-3-02 of the Administrative Code and forwarded to OP&F.
- (1) ~~That members of the fund who were members of local police and fire relief and pension funds at time of transfer of assets to the police and firemen's disability and pension fund (now known as police and fire pension fund) shall receive service credit as reported by the trustees of the police and fire relief and pension funds on which accrued liability payments were established;~~
- (2) ~~That subsequent to January 1, 1967, years of service or years of active service shall mean years of full-time service for which retirement contributions are deducted from "salary," as such term is defined in section 742.01 of the Revised Code and rule 742-3-01 of the Administrative Code, and forwarded to the police and firemen's disability and pension fund (now known as police and fire pension fund);~~
- (3) ~~Notwithstanding the above, volunteer and part-time members of police and fire relief and pension funds at time of transfer of assets to the police and firemen's disability and pension fund (now known as police and fire pension fund), as provided by former section 742.26 of the Revised Code, shall receive service credit as members of the police and firemen's disability and pension fund (now known as police and fire pension fund) provided retirement contributions were deducted from the salary and forwarded to the police and firemen's disability and pension fund.~~
- ~~(C)~~(B) For purposes of determining "full-time service," OP&F may request the employer and the member to certify the full-time service, but, in any event, OP&F will determine that the contributing credit was for full-time service. In order for the service to be "full-time," as provided for in divisions (A) and (B) of section 742.01 of the Revised Code: (1) the service credit must have been rendered while employed in a full-time public position; and (2) the individual must meet the criteria for "full-time contributing service," as outlined in rule 742-5-03 of the Administrative Code.

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742-5-07

**Service credit purchases and transfers.**

- (A) For purposes of sections 742.21 and 742.251 of the Revised Code, a "purchase" shall mean that the Ohio police and fire pension fund ("OP&F") member withdrew his/her contributions from the applicable retirement system or out-of-state or local government and a "transfer" shall mean that the OP&F member maintained his/her contributions with the applicable retirement system.
- ~~(B)~~ For purposes of section 742.21 of the Revised Code, ~~"attributable to full-time service or purchase of credit" shall mean contributions paid by or for the benefit of the eligible member for service credit that was full-time, as defined in rule 742-5-03 of the Administrative Code and this rule.~~
- ~~(C)~~(B) For purposes of divisions (B)(1) and (C)(1)(a) of section 742.21 of the Revised Code, "amount withdrawn" shall mean contributions paid by the member to the applicable retirement system for service credit, which are later withdrawn from that retirement system by the member, but shall not include interest paid to the member on such contributions by the withdrawing retirement system. In no event, however, shall this definition impact OP&F's right to the payment of interest according to divisions (B), (C), (H) and (I) of section 742.21 of the Revised Code.
- ~~(D)~~(C) For purposes of determining whether an OP&F member is not receiving a pension or benefit payment, as outlined in sections 742.21 and 742.251 of the Revised Code, OP&F will rely upon ~~the terms of rule 742-3-17 of the Administrative Code~~ and its books and records.
- ~~(E)~~(D) For purposes of determining "full-time service," OP&F ~~may~~shall request the employer and the member to certify the full-time service, but in any event, OP&F will determine that the contributing credit was for "full-time service." In order for the service to be "full-time", as provided for in divisions (A) and (B) of section 742.01 of the Revised Code: (1) the service credit to be purchased or transferred must have been rendered while employed in a full-time public position; and (2) the individual must meet the criteria for "full-time contributing service," as outlined in rule 742-5-03 of the Administrative Code. As a result, any pay period in which the member failed to work the equivalent of thirty-seven and one half or more hours per week does not qualify as "full-time" and in such event, OP&F will pro-rate such credit.
- ~~(F)~~(E) As required by section 742.21 of the Revised Code, in no event can credit be purchased or directly transferred for employment in a part-time position. For purposes of meeting the definition of "full-time service" in section 742.21 of the Revised Code and this rule, periods of service in part-time positions cannot be combined to equal "full-time service."
- ~~(G)~~(F) Credit may not be purchased or directly transferred for periods of employment

concurrent with any employment for which the member has already received OP&F service credit.

~~(H)~~(G) Subject to the other provisions of this rule, an OP&F member who is not receiving a pension or benefit payment from OP&F may purchase qualifying service credit for periods of full-time service in a full-time public position as a member of a state or municipal retirement system in the state of Ohio, provided that such service credit has been canceled by the system in which it was earned.

~~(H)~~(H) Subject to the provisions of section 742.251 of the Revised Code and the other provisions of this rule, an OP&F member who is not receiving a pension or benefit payment from OP&F may purchase qualifying service credit for periods of full-time service in a full-time public position as an employee of an entity of an out-of-state or local government, or of an entity of the United States government, provided that such service credit is not used in the calculation of any public or private retirement benefit, other than federal social security benefits.

A member who chooses to purchase service credit under this paragraph rather than transferring the qualifying service credit under paragraph (I) of this rule is entitled to be granted service credit for periods of active duty military service, as provided for in section 742.521 of the Revised Code.

~~(J)~~(I) To initiate the transfer of eligible service credit to OP&F under section 742.21 of the Revised Code, the member ~~should~~shall initiate the request with the transferring retirement system. Within a reasonable time from OP&F's receipt of the ledger of contributions and the employer address from the transferring system, OP&F will send ~~a certification to both the employer and the OP&F member on the "full-time" status and other payroll information.~~a transfer packet to the member containing a certification to be completed and signed by the member and a certification to be completed by the employer where the service credit that is being transferred was earned. The certification forms should be returned together to OP&F. Upon receipt of this information, OP&F will then review the certifications and ledger information and notify the transferring system of the eligible service credit that should be transferred pursuant to section 742.21 of the Revised Code. In the event that the transferring system transfers monies to OP&F without OP&F's review and approval, OP&F reserves the right to reject service credit that does not meet the criteria for "full-time," as outlined in this rule.

~~(K)~~(J) To initiate ~~a~~the purchase of eligible service credit from OP&F, the member ~~may~~shall notify OP&F ~~or OP&F may receive the request from the member's former retirement system to request a cost to purchase the service credit.~~ Within a reasonable time period of such notice, OP&F will send ~~a certification to the member and the member's former employer, which will request, among other things, whether the position was full-time and the dates of employment~~the member



a purchase packet containing a certification to be completed and signed by the member and a certification to be completed by the member's employer(s) where the purchasable service credit was earned. The certification forms should be returned together to OP&F. Notwithstanding ~~this certification~~ these certifications, OP&F will review the documentation and determine if the service is "full-time," as required by section 742.21 of the Revised Code, and as more fully outlined in this rule. Once OP&F determines the service credit meets the statutory and administrative requirements, OP&F will provide the eligible member with a cost statement ~~in such monthly increments, as determined by OP&F's director of member services. Once the member pays monies to OP&F, whether the full or partial amount, OP&F will request that the former system transfer the monies to OP&F.~~ Once the member purchases the service credit, OP&F will bill the former system for monies associated with the purchase, as required by section 742.21 of the Revised Code. In the event that the former system ~~transfers~~ pays the monies to OP&F without OP&F's review and approval, OP&F reserves the right to reject service credit that does not meet the criteria for "full-time," as outlined in this rule.

~~(L)~~(K) For purposes of division (K) of section 742.21 of the Revised Code, purchased service credit not only includes purchased service credit, but it shall also include service credit transferred by the Cincinnati retirement system, a non-uniform retirement system, or the other uniform retirement system to OP&F.

~~(M)~~(L) The interest rate charged for the purchase of civilian service credit shall be the actuarial interest assumption adopted by the board.

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