

1 TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
2 SUBTITLE D: RETIREMENT SYSTEMS
3 CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS
4

5 PART 1540
6 THE ADMINISTRATION AND OPERATION OF THE
7 STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS
8

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- 70
- 71 1540.APPENDIX A Grievance Form
- 72 1540.TABLE A Optional Forms of Benefits – Basis of Computation

73

74 AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40

75 ILCS 5].

76

77 SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February

78 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill.

79 Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page

80 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981;

81 amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective

82 October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill.

83 Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill.

84 Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677,

85 effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency

86 amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at

87 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300
 88 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective
 89 July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a
 90 maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill.
 91 Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990;
 92 amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective
 93 September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency
 94 amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended
 95 at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187,
 96 effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective
 97 December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23
 98 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1,
 99 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090,
 100 effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency
 101 amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended
 102 at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775,
 103 effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective
 104 November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30
 105 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21,
 106 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33
 107 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired
 108 November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34
 109 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014;
 110 emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150
 111 days; emergency amendment modified in response to Joint Committee on Administrative Rules
 112 Objection at 39 Ill. Adm. Code 5626, effective April 7, 2015, for the remainder of the 150 days;
 113 amended at 39 Ill. Reg. 9582, effective June 26, 2015; amended at 41 Ill. Reg. 4217, effective
 114 March 22, 2017; amended at 42 Ill. Reg. 9568, effective May 29, 2018; emergency amendment
 115 at 42 Ill. Reg. 21436, effective November 13, 2018, for a maximum of 150 days; amended at 43
 116 Ill. Reg. 768, effective December 19, 2018; amended at 43 Ill. Reg. 3965, effective March 18,
 117 2019; amended at 43 Ill. Reg. 9252, effective August 16, 2019; amended at 44 Ill. Reg. 534,
 118 effective December 27, 2019; amended at 44 Ill. Reg. 7888, effective April 27, 2020; amended at
 119 44 Ill. Reg. 11172, effective June 19, 2020; amended at 44 Ill. Reg. 19510, effective December
 120 2, 2020; amended at 45 Ill. Reg. 3023, effective February 26, 2021; amended at 45 Ill. Reg.
 121 6848, effective May 24, 2021; amended at 45 Ill. Reg. 9547, effective July 19, 2021; amended at
 122 46 Ill. Reg. 4100, effective February 23, 2022; amended at 46 Ill. Reg. 6945, effective April 21,
 123 2022; amended at 46 Ill. Reg. 14779, effective August 22, 2022; amended at 46 Ill. Reg. 19224,
 124 effective November 18, 2022; amended at 47 Ill. Reg. 3530, effective February 22, 2023;
 125 amended at 47 Ill. Reg. 8026, effective May 24, 2023; amended at 47 Ill. Reg. 13138, effective
 126 August 22, 2023; amended at 47 Ill. Reg. 16043, effective October 26, 2023; amended at 48 Ill.
 127 Reg. _____, effective _____.

128
 129 **Section 1540.80 Disability Claims**

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- a) Nonoccupational Disability and Temporary Disability
 - 1) Any member of the State Employees' Retirement System (SERS) claiming benefits for nonoccupational disability or temporary disability shall file at the Springfield Office of SERS a written application on forms prescribed by the Board.
 - 2) If a member makes a payment of contributions to SERS in order to establish sufficient credit to qualify for a nonoccupational disability benefit, payment of the benefit shall accrue as of the latter of the 31st day of absence from work (including any periods of the absence for which sick pay was received), the day after the member is last entitled to receive compensation (including any sick pay), or the date of payment to SERS. The date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment). If a member is receiving a nonoccupational disability benefit, and incurs a concurrent sickness or condition that is severe enough to disable the member past the period in which the member is disabled from the original sickness or condition, the nonoccupational benefit would continue uninterrupted and the member would not be required to obtain a new leave of absence or incur a new 30 day waiting period. A benefit will continue uninterrupted in the manner described only if the member is otherwise eligible for the benefit and a licensed healthcare professional's report is provided and supports the disabling sickness or condition.
 - 3) If a member makes a payment of contributions to SERS in order to establish sufficient credit to qualify for a temporary disability benefit, payment of the benefit shall accrue as of the latter of the 31st day after the member is last entitled to receive compensation or the date of payment to SERS. The date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment).
 - 4) If a member who is receiving a nonoccupational or temporary disability benefit wishes to make a payment of contributions to extend the period of eligibility for receipt of the benefit, the request to make the payment must be received at the Springfield Office of SERS before the period of eligibility terminates and the date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment).
 - 5) If a member requests to have service credits under the State Universities

173 Retirement System (SURS) or the Teachers' Retirement System of the
 174 State of Illinois (TRS) considered for the purposes of determining
 175 nonoccupational or temporary disability benefit eligibility under Section
 176 14-124 or 14-123.1 of the Illinois Pension Code, or for purposes of
 177 calculating the total period of time for which benefit will be paid, SERS
 178 shall not include in its calculations any credits accrued under Article 15 or
 179 16 of the Code that have been forfeited by acceptance of a refund or
 180 applied toward a retirement annuity and that have not been restored or
 181 otherwise reestablished in accordance with the requirements of those
 182 Articles of the Code. Credits accrued under Article 15 or 16 of the Code
 183 that have been forfeited by acceptance of a refund or applied toward a
 184 retirement annuity, and that have not been restored or otherwise
 185 reestablished in accordance with the requirements of those Articles of the
 186 Code, shall not be considered for purposes of determining eligibility for a
 187 nonoccupational or temporary disability benefit under Section 14-124 or
 188 14-123.1 of the Illinois Pension Code (Code) [40 ILCS 5] or in
 189 determining the total period of time for which such a benefit is payable.

190
 191 6) The System may deem the requirement of Section 14-124(4) of the Code
 192 to be satisfied with respect to a member if the member who is applying for
 193 a nonoccupational disability benefit is eligible to be granted a leave of
 194 absence for disability but, before the leave could be granted, upon medical
 195 examination, the member is found to be permanently and totally
 196 incapacitated to perform the duties of the member's position.

197
 198 b) Occupational Disability
 199 Any member of SERS claiming benefits for occupational disability shall file at
 200 the Springfield Office of SERS a written application on forms prescribed by the
 201 Board.

202
 203 c) Licensed Healthcare Professionals
 204 Before an occupational, nonoccupational or temporary disability benefit can be
 205 approved, one statement must be received from a licensed healthcare professional
 206 attesting to the disability. An additional statement from a second licensed
 207 healthcare professional may be required by the disability examiner assigned to the
 208 case, depending on the nature of the disabling condition.

209
 210 d) Report of Licensed Healthcare Professionals

211
 212 1) All reports provided to the System by a licensed healthcare professional
 213 shall contain, among other things, the date and place of the first
 214 examination by the licensed healthcare professional, the cause and nature
 215 of the member's disability, information regarding surgical work or

216 laboratory tests performed for the member, the date of last examination by
217 the licensed healthcare professional, prognosis regarding the member's
218 disability, an estimate of the probable length of the member's disability,
219 and the licensed healthcare professional's license number.

220

221 2) All licensed healthcare professional's reports shall be signed by a licensed
222 healthcare professional or by medical records personnel employed by or
223 acting pursuant to the direction of the licensed healthcare professional.

224

225 e) Suspension and Termination for Gainful Employment

226 The occupational, non-occupational, and temporary disability benefits that are
227 payable to members under Article 14 of the Illinois Pension Code are subject to
228 suspension and termination for gainful employment in accordance with Section
229 1540.85.

230

231 f) Investigation of Claims

232

233 1) The SERS Board of Trustees recognizes its obligation to provide a
234 systematic program for the continued investigation, control and
235 supervision of disability claims.

236

237 2) Each disability benefit recipient is required to provide a current medical
238 examination report each 6 months to substantiate continued disability. In
239 order to substantiate the member's continued eligibility for disability
240 benefits, the Disability Claims Examiner may require that the member
241 submit to independent medical examinations and may request additional
242 medical statements; hospital records; activity inspection reports;
243 Department of Employment Security Earning Statements; Social Security
244 benefit payment information; income tax records; or other pertinent
245 information, all as deemed reasonable and necessary by the Examiner.
246 SERS may waive the medical examination report requirement for cases in
247 which the evidence supports that a member is permanently disabled and
248 that the member will never be able to return to their former position.

249

250 3) Failure of a disability benefit recipient to submit to an independent
251 medical examination, to cooperate with an activity inspection, or to
252 provide the information required shall result in suspension of benefit
253 payments.

254

255 4) Any benefit suspended as a result of a medical examination will be
256 suspended on the last day of the month in which the claim is reviewed by
257 the Executive Committee.

258

- 259 5) The System may direct a covered employee who is receiving a
 260 nonoccupational or temporary disability benefit from the System and who
 261 is eligible under the federal Social Security Act (42 U.S.C. 7) for a
 262 disability benefit before attaining the Social Security full retirement age to
 263 file a claim for benefits under the federal Social Security Act so that the
 264 amount of the Social Security offset to the System-provided disability
 265 benefit can be calculated as provided in Sections 14-123.1 and 14-125 of
 266 the Code. If an employee does not file a claim for Social Security benefits
 267 within 30 days after receiving written direction from the System to do so,
 268 then the payment of the System-provided disability benefit shall be
 269 suspended until the member files such a claim.
 270
- 271 6) Any person who applies for or who is receiving disability benefits and
 272 knowingly makes to SERS any false statement, falsifies or permits to be
 273 falsified any record submitted to SERS, or omits pertinent information in
 274 an attempt to defraud SERS, shall have the benefit suspended until the
 275 correct information has been provided to SERS.
 276
- 277 A) If the correct information that is provided does not substantiate
 278 eligibility for the disability benefit payments, then the benefit shall
 279 be terminated.
 280
- 281 B) If it is determined that the person omitted pertinent information
 282 and the correct information that is provided supports that the
 283 individual is gainfully employed, then the process prescribed in
 284 subsection (e) shall determine if the benefit payments shall resume.
 285
- 286 C) If it is determined that the person knowingly made to SERS a false
 287 statement, or falsified or permitted to be falsified any record
 288 submitted to SERS, in an attempt to defraud SERS and the correct
 289 information that is provided supports that the individual is
 290 gainfully employed, then the benefit shall be terminated.
 291
- 292 g) A disability benefit claim will be processed after the date that the final payroll
 293 payment received by the member has been posted to SERS' accounting database.
 294
- 295 h) When calculating the amount of a nonoccupational, occupational, or temporary
 296 disability benefit under Section 14-123, 14-123.1, or 14-125 of the Code, the
 297 "date of disability" or "time disability occurred" is the date the member is
 298 removed from payroll by virtue of being placed on disability leave.
 299
- 300 i) When calculating the final average compensation of a disability benefit claim, the
 301 calculation shall include the actual compensation received during the month in

302 which the member left the regular payroll.
303

- 304 j) Any individual receiving an occupational disability benefit under Section 14-123
305 of the Code who remains disabled at the end of the month in which that benefit
306 ceases under paragraph (3) or (4) of Section 14-123 shall become entitled to a
307 retirement annuity and have the minimum period of service prescribed for the
308 receipt of such annuity waived as described in that Section. The disability benefit
309 described in this subsection (j) applies regardless of whether the member first
310 became a member on or after January 1, 2011.

- 311
312 k) For the purpose of Section 14-125.1 of the Illinois Pension Code, "the fourth
313 anniversary of the granting of the benefit", means that a member receives
314 disability benefit payments for 48 consecutive months without an interruption due
315 to suspension.

- 316
317 l) Definitions
318

319 As used in this Section:
320

321 "Code" means the Illinois Pension Code [40 ILCS 5].
322

323 "Full retirement age" means the age at which an individual is eligible to
324 receive full Social Security retirement benefits.
325

326 "The duties of the member's position" means the duties of the member's
327 position as of the date the member's name is removed from the payroll
328 without regard to subsequent changes in the duties of the position,
329 availability of the position, or the member's right to return to the position.
330

331 "Licensed healthcare professional" means any individual who is licensed
332 by the Department of Financial and Professional Regulation as a physician
333 under the Medical Practice Act of 1987 [225 ILCS 60], as a physician
334 assistant under the Physician Assistant Practice Act of 1987 [225 ILCS
335 95], as a psychologist under the Clinical Psychologist Licensing Act [225
336 ILCS 15], or as an advanced practice registered nurse under the Nurse
337 Practice Act [225 ILCS 65] or who is licensed or otherwise credentialed
338 by the licensing body of another state as a physician, physician assistant,
339 clinical psychologist, or advanced practice registered nurse under the laws
340 of that state.
341

342 "Licensed healthcare professional's license number" means the unique
343 license number, registration number, or other identifier issued by the
344 federal Centers for Medicare and Medicaid Services, the Department of

345 Financial and Professional Regulation, or the licensing body of another
346 state to an individual who is licensed or otherwise credentialed by the
347 Department of Financial and Professional Regulation or the licensing body
348 of another state, as a licensed healthcare professional.

349
350 "Member", for purposes of Sections 14-123, 14-123.1, and 14-124 of the
351 Code, means an employee in active service at the time of incurring a
352 disabling condition.

353
354 (Source: Amended at 48 Ill. Reg. _____, effective _____)

355
356 **Section 1540.85 Benefit Suspension and Termination for Gainful Employment or Activity**

357
358 a) Suspension of Benefit for Gainful Employment or Activity
359 If the System becomes aware that a member who is receiving an occupational,
360 non-occupational, or temporary disability benefit under Article 14 of the Illinois
361 Pension Code has engaged in gainful employment or if the System becomes
362 aware that the unmarried adult disabled child of a deceased member or annuitant
363 is receiving a survivor's annuity or occupational death benefit under Article 14 of
364 the Illinois Pension Code and has engaged in substantial gainful activity, then it
365 shall immediately suspend the respective Article 14 benefit and provide the
366 affected individual with written notice of the benefit suspension and of the
367 individual's right to appeal the benefit suspension under subsection (e) ~~of this~~
368 ~~Section~~.

369
370 b) Gainful Employment or Activity
371 For purposes of this Section and Article 14 of the Illinois Pension Code, an
372 individual engages in gainful employment and substantial gainful activity when
373 the individual:

374
375 1) returns to active employment or becomes employed with the State of
376 Illinois in any capacity;
377
378 2) violates the Calendar Quarter Remuneration Limit in subsection (c) ~~of this~~
379 ~~Section~~ for the first time and fails within the period specified by the
380 System:

381
382 A) to execute an agreement with the System to repay the System all
383 amounts earned in excess of the Calendar Quarter Remuneration
384 Limit; and

385
386 B) to repay the System the amount described in the agreement; or
387

388 3) violates the Calendar Quarter Remuneration Limit in subsection (c) ~~of this~~
389 ~~Section~~ for a second or subsequent time.

390

391 c) Calendar Quarter Remuneration Limit

392 No member who is receiving an occupational, nonoccupational, or temporary
393 disability benefit under Article 14 of the Illinois Pension Code and no adult
394 disabled child who is receiving a survivor's annuity or occupational death benefit
395 under Article 14 of the Illinois Pension Code may receive more ~~than \$3,660~~ in
396 remuneration than the substantial gainful activity amount that is determined
397 annually by the Commissioner of the Social Security Administration in
398 accordance with 42 C.F.R. 423(d)(4) in any calendar quarter.

399

400 d) Remuneration

401

402 1) As used in this Section, "remuneration" means any compensation for
403 personal services, including fees, wages, salary, commissions, and similar
404 items, as well as any income derived from active participation in a
405 business activity or through the performance of physical or mental
406 activities generally performed for the production of income, regardless of
407 whether the compensation or income is earned through self-employment
408 or employment by others.

409

410 2) "Remuneration" includes the fair market value of non-monetary goods or
411 services received as remuneration.

412

413 3) "Remuneration" does not include:

414

415 A) income from income-producing opportunities or activities created
416 by the member or individual before the onset of disability except to
417 the extent that the level of income produced by the opportunity or
418 activity has increased through the member or individual's
419 performance of physical or mental activities after the onset of the
420 disability;

421

422 B) earnings that are derived from financial instruments, real estate, a
423 limited partnership, or any other enterprise in which any individual
424 is not involved in active participation; or

425

426 C) income generated from the sale of the member or individual's
427 personal residence.

428

429 4) Remuneration shall be computed based on the date earned (rather than the
430 date received) and on a gross rather than net basis. No deductions of any

431 kind, including, but not limited to, deductions for losses, expenses, taxes,
 432 or withholding shall be considered in the computation of remuneration
 433 under this Section.
 434

435 5) Remuneration representing gain from the sale, exchange or other
 436 disposition of goods or other property shall be equal to the sum received
 437 on the sale, exchange, or disposition, less the amount representing the cost
 438 to the seller in acquiring the goods or other property that is sold,
 439 exchanged, or disposed of.
 440

441 e) Administrative Appeal Rights

442 An adversely affected individual may appeal the suspension of the individual
 443 survivor's annuity, occupational death benefit, or disability benefit under this
 444 Section to the Executive Committee in the same manner as a member may appeal
 445 the disposition of a claim to the Executive Committee under Section 1540.270,
 446 except that all Petitions for Hearings and Petitions for Written Appeals must be
 447 received by the Executive Secretary of the System within 30 days after the date of
 448 the written notice described in subsection (a) ~~of this Section~~. If the Executive
 449 Committee determines on appeal that an individual has not engaged in gainful
 450 employment and substantial gainful activity, as described in subsection (b) ~~of this~~
 451 ~~Section~~, while receiving a survivor's annuity, occupational death benefit, or
 452 disability benefit under Article 14 of the Illinois Pension Code, then the Executive
 453 Committee shall direct the System to reinstate the suspended benefit. If the
 454 Executive Committee determines on appeal that an individual has engaged in
 455 gainful employment or substantial gainful activity, as described in subsection (b)
 456 ~~of this Section~~, while receiving a survivor's annuity, occupational death benefit, or
 457 disability benefit under Article 14 of the Illinois Pension Code, then the Executive
 458 Committee shall issue a recommendation to the Board of Trustees that it terminate
 459 payment to the individual of any survivor's annuity, occupational death benefit, or
 460 disability benefit under Article 14 of the Illinois Pension Code.
 461

462 f) Benefit Termination or Reinstatement

463 If the Board of Trustees ratifies the Executive Committee's recommendation
 464 under subsection (e) ~~of this Section~~, that decision becomes the final administrative
 465 decision and then the System shall terminate the affected individual's survivor's
 466 annuity, occupational death benefit, or disability benefit under Article 14 of the
 467 Illinois Pension Code retroactively to the date of its initial suspension under this
 468 Section. If the Board of Trustees objects to ratification of the Executive
 469 Committee's recommendation under subsection (e) ~~of this Section~~, then the
 470 individual's survivor's annuity, occupational death benefit, or disability benefit
 471 under Article 14 of the Illinois Pension Code shall be reinstated retroactively to
 472 the date of benefit suspension under this Section.
 473

(Source: Amended at 48 Ill. Reg. _____, effective _____)