

Disability

Should you become totally and permanently disabled, you may be eligible to receive disability retirement benefits. The FRS actuary reports that about 4% of all FRS members (and 7% of Special Risk Class) will separate from employment due to disability.

FRS Pension Plan	FRS Investment Plan
<p>There are two types of disability retirement benefits: in-line-of-duty and regular disability. To qualify for either kind of benefit, you must be totally and permanently disabled and unable to work.</p> <p>In-Line-of-Duty Disability These benefits are payable if you become totally and permanently disabled due to an illness or injury that occurs as a result of the performance of duties required by your employer. You're eligible for these benefits from your first date of employment in a regularly established position. About 1% of FRS annuitants currently receive these disability payments.</p> <p>Your minimum in-line-of-duty disability benefit will be 42% of your Average Final Compensation under Payment Option 1 (or 65% if you're in the Special Risk Class). Your benefit will be based on your actual years of creditable service multiplied by your percentage value for regular retirement benefits if it is higher than the 42% or 65% minimum.</p> <p>Regular Disability Regular disability retirement benefits are payable for an illness or injury from natural causes or an accident not related to your employment. You must have 8 years of creditable service to be eligible for regular disability retirement benefits. About 4% of FRS annuitants currently receive these disability payments.</p> <p>Your minimum regular disability benefit will be 25% of your Average Final Compensation under Payment Option 1. Your benefit will be based on your actual years of creditable service multiplied by your percentage value for regular retirement benefits if it is higher than the 25% minimum.</p>	<p>Investment Plan disability provisions are the same as those in the Pension Plan. If you want to and are eligible to retire because of a disability, your retirement plan membership will be transferred to the Pension Plan. You will receive benefits under the provisions of that Plan. Your Investment Plan account balance will be transferred to the Pension Plan Trust Fund to help fund your disability benefit.</p> <p>If you recover from your disability, you will be returned to the Investment Plan and any funds available in your previous Investment Plan account balance minus the benefits received will be transferred as your opening account balance in the Investment Plan.</p>

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60S-4.007 Benefits Payable for Disability Retirement.

(1) A member of the Pension Plan or a participant of the Investment Plan shall be eligible to apply for a disability benefit in accordance with Section 121.091(4), F.S., provided:

(a) The member is in the employ of a Florida Retirement System employer at the time the member becomes disabled; and

(b) The member is no longer able to work; and

(c) The member has creditable service as follows:

1. The member becomes disabled in-line-of-duty regardless of length of service; or

2. The member was employed on or after July 1, 2001, and has completed at least 8 years of creditable service;

or

3. The member completed at least 10 years of creditable service prior to July 1, 2001; or

4. The member completed 5 years of creditable service prior to July 1, 1980; or

5. The member was employed on July 1, 1980, had completed less than 5 years of creditable service on that date, but has since completed a total of 5 years creditable service and provides proof that he or she has not attained a fully insured status for benefits under the federal Social Security Act; and

(d) The member's eligibility to apply is verified by the Administrator upon the receipt of the disability retirement application; Form FR-13, for FRS Pension Plan members and Form PR-13, for FRS Investment Plan members as adopted in paragraph 60S-4.003(1)(c), F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements, the Administrator will then consider the member's total and permanent disability claim (Form FR-13 for FRS Pension Plan members or Form PR-13 for FRS Investment Plan members) as provided in paragraphs 60S-4.007(2)(b) and (d), F.A.C.

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he or she may petition in writing the State Retirement Commission for an administrative hearing pursuant to Sections 120.569 and 120.57(1), F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(2) An FRS member who is eligible in accordance with subsection 60S-4.007(1), F.A.C., shall receive a disability benefit provided:

(a) The member is totally and permanently disabled by reason of a medically determinable physical or mental impairment which prevents him or her from rendering useful and efficient service as an officer or employee. The unavailability of an employment position that the member is physically and mentally capable of performing shall not be a factor in such determination of total and permanent disability. The member shall be considered disabled in the line-of-duty if his or her injury or illness arose out of and in the actual performance of duty required by the member's employment. Documentation must show that:

1. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his or her employer; and

2. The member was totally and permanently disabled at the time he or she terminated his or her covered employment; and

3. The member was not employed with any other employer after such termination; and

4. If the application is for in-line-of-duty disability, the disability must have been caused by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his or her employer; and

(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division which must include documentation attesting to the criteria in paragraph (a):

1. Application for Disability Retirement;

a. An FRS Pension Plan member shall submit application on Form FR-13, Florida Retirement System Pension Plan Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C.;

b. An FRS Investment Plan member shall submit application on Form PR-13, Florida Retirement System Investment Plan Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C.;

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2. Statement of Disability by Employer, Form FR-13a (Rev. 07/06), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00351>, Florida Retirement System Statement of Disability by Employer, herein adopted by reference; to be completed by the member's employer which may be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area or locally at (850) 488-2968 or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771;

3. Two Physician's Reports to be completed by two Florida licensed physicians as follows:

a. Such reports shall be completed and submitted to the Division on Form FR-13b (Rev. 06/06), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00352>, Florida Retirement System Physician's Report, herein adopted by reference which may be obtained from the Forms page of the Division's website, www.frs.MyFlorida.com, or by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area or locally at (850) 488-2968. Individuals with a hearing or speech impairment may call the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771.

b. Effective July 1, 2005, a member employed in a Florida Retirement System (FRS)-covered position who is permanently assigned by his or her FRS employer to work outside the State of Florida, but within the United States, may have the FR-13b forms completed by two licensed physicians of the state of work assignment;

4. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates all employment; and

(d) The Administrator approves the member's application for regular disability or in-line-of-duty disability according to the following:

1. Upon receipt of the completed application and all required documents as provided in paragraph 60S-4.007(2)(b), F.A.C., the Administrator shall determine if the member is totally and permanently disabled by reason of a medically determinable physical or mental impairment which prevents him or her from rendering useful and efficient service as an officer or employee. If the member has applied for in-line-of-duty disability, the Administrator will also determine if the member's injury or illness arose out of and in the actual performance of duty required by the member's employment.

2. Any firefighter, paramedic, emergency medical technician, law enforcement officer or correctional officer who is approved for disability retirement due to hepatitis, meningococcal meningitis, or tuberculosis, is presumed to be disabled in the line of duty, unless the contrary is shown by competent evidence, provided:

a. The member, after diagnosis of hepatitis, meningococcal meningitis, or tuberculosis, verifies by written affidavit that he or she was not exposed, outside the scope of his or her employment, to such diseases, as provided in paragraphs 112.181(2)(a), (b) and (c), F.S.; and

b. The member, prior to diagnosis, undergoes immunization or prophylaxis for the prevention of hepatitis, meningococcal meningitis, or tuberculosis, when such immunization or prophylaxis exists and where medically indicated, and unless the member is advised by his or her doctor in writing that immunization or prophylaxis would pose a significant risk to his or her health, as provided in subsection 112.181(3), F.S.; and

c. The member undergoes, prior to diagnosis, standard, medically acceptable tests which fail to indicate the presence of hepatitis infection, or tuberculosis, or the evidence of medical conditions derived therefrom, and on or after January 1, 1996, a member, prior to employment in an affected position, undergoes a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis infection or tuberculosis.

d. All such members shall file an incident or accident report with their employer of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis; and the employer shall maintain a record of any known or reasonably suspected exposure of such employees to such diseases and immediately notify the employees of such exposure.

3. Any firefighter, law enforcement officer, or correctional officer as defined in Section 943.10(1), (2), or (3), F.S., who is approved for disability retirement due to tuberculosis, heart disease, or hypertension is presumed to be disabled in the line of duty, unless the contrary is shown by competent evidence, provided the member has successfully passed a physical examination upon entering employment as a firefighter or state law enforcement and

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the examination failed to reveal any evidence of such conditions.

4. The member shall be notified of the Administrator's approval as follows:

a. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits as provided in subsection 60S-4.007(5), F.A.C.

b. For a member who has applied for in-line-of-duty disability benefits, if the Administrator determines that the member is totally and permanently disabled but that such member's illness or injury did not arise out of and in the actual performance of duty required by the member's employment, the Administrator shall notify the member that his or her application for in-line-of-duty disability benefits is denied but that, if eligible, such member shall receive regular disability benefits as provided in paragraph 60S-4.007(5)(b), F.A.C. If such member chooses to appeal the Administrator's denial of in-line-of-duty disability benefits as provided in subsection 60S-4.007(3), F.A.C., the member may choose to begin receiving the regular disability benefits while appealing such denial.

(3) Should the Administrator determine that a member has failed to demonstrate total and permanent regular disability or in-line-of-duty disability, as provided in paragraph 60S-4.007(2)(a), F.A.C., the following procedure shall be followed:

(a) The member shall be notified by certified mail with return receipt requested. The notice shall include a summary of the factual, legal and policy grounds for the Administrator's intended decision.

(b) When a member receives notice that the Administrator intends to deny his or her application, he or she shall have 21 calendar days to present written evidence to the Administrator in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision.

(c) If the Administrator overrules the objections of the member, he or she shall within 21 calendar days provide a written explanation to the member by certified mail with return receipt requested, giving the reasons for his or her decision and advising the member of his or her right of appeal under the law. A copy of this final decision on the merits shall be sent to the member's employer.

(d) If the member does not accept the Administrator's final decision on the merits, the member may request in writing a hearing on his or her disability claim before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be made within 21 calendar days from the date the member receives notice of the Administrator's final decision. If the State Retirement Commission's decision upholds the member's request for disability retirement benefits, the Commission may include in the retirement order an amount for reasonable attorney's fees and taxable costs. The amount of the attorney's fee shall be determined by the commission and shall not exceed 50 percent of the initial yearly benefit awarded to the member. The taxable costs shall be calculated in accordance with the statewide uniform guidelines for taxation of costs in civil actions.

(e) The decisions of the State Retirement Commission on matters brought before it under this section shall be final agency action.

(f) The decisions of the State Retirement Commission shall be reviewable by petition to the District Court of Appeal pursuant to Section 121.23, F.S.

(g) A member whose application for regular disability retirement has been denied may, if eligible, elect to receive normal or early service retirement benefits after he or she has filed an appeal to the State Retirement Commission and is awaiting the decision on the appeal. If the member elects to receive service retirement benefits and disability benefits are later approved as a result of the appeal, the payment option chosen by the member cannot be changed. If the member elects to receive early service retirement and the appeal is later denied, the member cannot change his or her election of early retirement. Before beginning to receive regular or early retirement benefits, the member must complete and submit Form SRA-1 (Rev. 12/04), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00378>, Florida Retirement System Pension Plan Service Retirement Agreement, herein adopted by reference, to the Division attesting to the fact that he or she understands that he or she cannot make such changes after he or she begins receiving the benefits. Form SRA-1 may be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968. Individuals with a hearing or speech impairment may call the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771.

(4) A member, whose initial application for disability retirement has been denied, may reapply for disability

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benefits; however, such member's reapplication will be considered only if the member presents new medical evidence of a medical condition that existed prior to the member's termination of employment.

(a) To reapply, the FRS member shall submit to the Division:

1. A new Application for Disability Retirement as provided in paragraph 60S-4.0035(1)(c), F.A.C. The effective retirement date shall be established as provided in paragraph 60S-4.0035(3)(b), F.A.C., based on the date of receipt of the new application; and

2. A new Statement of Disability by Employer as provided in subparagraph 60S-4.007(3)(b)2., F.A.C., only if an employee/employer relationship has existed since the date of the initial disapproval; and

3. Two new Physician's Reports completed as provided in subparagraph 60S-4.007(3)(b)3., F.A.C. The application will be considered only if the physician certifies the following:

a. The member's medical condition occurred or became symptomatic during the time the member was employed in an employee/employer relationship with his or her employer; and

b. The member was totally and permanently disabled at the time he or she terminated his or her covered employment, and he or she has not been employed with any other employer after such termination; and

c. If the application is for in-line-of-duty disability, the disability was caused by a job-related illness or accident which occurred while the member was in an employee/employer relationship with his or her employer.

(b) The reapplication for disability retirement will be reviewed to determine if the information had not been previously available or if new information from the previous physicians has been submitted, as follows:

1. If no new medical information is received, the reapplication for disability retirement will be disapproved as provided in subsection 60S-4.007(3), F.A.C., and the member will be advised of his or her right to an Administrative Hearing under Chapter 120, F.S.

2. If new medical information is received, the same review and approval or disapproval process will be followed as for an initial application as provided in subsection 60S-4.007(2), F.A.C. If the reapplication is disapproved, and regardless of whether the member appealed the initial disapproval decision to the State Retirement Commission, the member may request a hearing before the State Retirement Commission under Section 120.57(1), F.S., as provided in subsection 60S-4.007(3), F.A.C.

(5) An FRS member who has received approval from the Administrator shall receive benefits in accordance with the following:

(a) The FRS member approved for in-line-of-duty disability may elect to receive:

1. A monthly benefit computed in the same manner as for a normal retirement benefit under Option 1 in subsection 60S-4.010(1), F.A.C., as if the member had reached normal retirement age, but based on his or her average final compensation and creditable service as of his or her disability retirement date, except that, if this produces a benefit which is less than 42 percent of his or her average monthly compensation as of his or her disability retirement date, he or she shall receive a benefit equal to 42 percent of his or her average monthly compensation, except that a Special Risk Class member who retires on or after July 1, 2000, shall receive a benefit equal to at least 65 percent of his or her average monthly compensation; or

2. A monthly benefit computed in the same manner as for a normal retirement benefit under Options 2, 3 or 4 as provided in paragraphs 60S-4.010(1)(b), (c) and (d), F.A.C. The benefit payable shall be the actuarial equivalent of the disability benefit as described in subparagraph 1. above to which the member would otherwise be entitled.

(b) The FRS member approved for regular disability may elect to receive:

1. A monthly benefit computed in the same manner as for a normal retirement benefit under Option 1 in subsection 60S-4.010(1), F.A.C., as if the member had reached normal retirement age, but based on his or her average final compensation and creditable service as of his or her disability retirement date, except that if this produces a benefit which is less than 25 percent of his or her average monthly compensation as of his or her disability retirement date, he or she shall receive a benefit equal to 25 percent of his or her average monthly compensation; or

2. A monthly benefit computed in the same manner as for a normal retirement benefit under Options 2, 3 or 4 as provided in paragraphs 60S-4.010(1)(b), (c) and (d), F.A.C. The benefit payable shall be the actuarial equivalent of the disability benefit as described in subparagraph 1. above to which the member would otherwise be entitled.

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3. The FRS Pension Plan member shall make his or her option selection as prescribed in subsection 60S-4.010(1), F.A.C. A married member who selects option 1 under paragraph (a) or option 2 under paragraph (b) shall notify his or her spouse of such option selection, and the spouse shall acknowledge any such option selection in accordance with subsection 60S-4.010(9), F.A.C.

4. The FRS Investment Plan member shall make his or her option selection on Form PR-11o (Rev. 02/10), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00366>, Florida Retirement System Investment Plan Option Selection for Disability Retirement, herein adopted by reference, which also requires such member to attest to his or her marital status on Form SA-2 (02/10), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00369>, Florida Retirement System Investment Plan Spousal Acknowledgment Form for Disability Retirement, herein adopted by reference. A married member who selects option 1 under paragraph (a) or option 2 under paragraph (b) shall notify his or her spouse of such option selection, and the spouse shall acknowledge any such option selection on the SA-2 form. Form PR-11o and Form SA-2 may be obtained from the Forms page of the Division's website, www.frs.MyFlorida.com, or by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area or locally at (850) 488-2968. Individuals with a hearing or speech impairment may call the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771.

(6) Blindness shall not be deemed a retirement disability within the provisions of the Florida Retirement System for any blind or partially-sighted person employed or licensed by the Bureau of Blind Services as a vending stand operator.

(7) Nonadmissible causes of disability shall be as follows:

(a) A member shall not be entitled to receive any disability retirement benefit other than a refund of his or her contributions if his or her disability is a result of any of the following:

1. Injury or disease sustained by a member who is convicted of willfully participating in riots, civil insurrections, or other acts of violence while committing a felony;

2. Injury or disease sustained by the member after his or her employment has terminated; or

3. Intentional self-inflicted injury.

(b) A member shall not be entitled to receive in-line-of-duty disability benefits when the disability results from drug or alcohol abuse except when the member is expected to use alcohol in the course of official undercover law enforcement work and such use clearly results in his or her disability.

(8) A member who retires under disability, subsequently recovers, and does not reenter covered employment shall notify the Division immediately to have his or her disability benefits discontinued and shall be subject to the following provisions:

(a) If he or she was not vested as of his or her disability retirement date, he or she shall be entitled to the excess, if any, of his or her accumulated contributions over the total disability benefits received up to his or her date of recovery.

(b) If he or she was vested as of his or her disability retirement date, he or she may elect to receive:

1. The excess, if any, of his or her accumulated contributions over the total disability benefits received up to his or her date of recovery; or

2. If the member has not reached normal retirement age at the time of recovery, he or she may receive a monthly benefit at the time he or she reaches normal retirement age, calculated in accordance with Rule 60S-4.004, F.A.C., based on his or her average final compensation and creditable service as of his or her disability retirement date.

3. If the member has not reached normal retirement age at the time of recovery, he or she may receive an early retirement benefit calculated as provided in Rule 60S-4.005, F.A.C., based on his or her average final compensation and creditable service as of his or her disability retirement date.

4. If the member has reached normal retirement age at the time of recovery, he or she may receive a normal retirement benefit as calculated in accordance with Rule 60S-4.004, F.A.C., based on his or her average final compensation and creditable service as of his or her disability retirement date.

(9) An FRS member who retires under disability, subsequently recovers and reenters covered employment shall notify the Division immediately to have his or her disability benefits discontinued and shall be subject to the

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following provisions:

(a) If he or she reenters covered employment within 6 months after his or her recovery, his or her service will be considered to have been continuous, but the period beginning with his or her disability retirement date and ending with the date he or she reenters employment will not be counted as creditable service for the purpose of computing benefits, except as provided in paragraphs 60S-4.007(9)(b) and (c), F.A.C.

(b) He or she shall notify the Division immediately upon reemployment. Any employer who employs a disability retiree who is receiving disability benefits shall notify the Division upon employment of such member, and the Division shall terminate such member's disability benefits effective the first day of the month following the month in which notification of recovery is received. If the member is reemployed with a Florida Retirement System employer at the time of benefit termination and he or she has received disability retirement benefit and salary payments concurrently prior to notifying the Division, he or she may elect within 30 days to:

1. Retain the retirement benefits received prior to termination of disability benefits and begin receiving retirement service credit effective the date of termination of benefits, or

2. Repay within 12 months of his or her decision to receive service credit, the retirement benefits received for each month of reemployment prior to termination of disability benefits and begin receiving retirement service credit effective the date of reemployment. Any such unpaid benefits shall have compound interest of 6.5 percent added June 30.

3. No member shall receive both retirement service credit for employment, and retirement benefits for the same month.

(c) If he or she is continuously reemployed in a regularly established position for a minimum of one work year he or she may claim as creditable service the months during which he or she received a disability benefit as provided in Rule 60S-2.018, F.A.C.

(10) The Division of Retirement may conduct periodic reexaminations of FRS members who have been granted either regular or in-line-of-duty disability under the provisions of Chapter 121, F.S., to determine whether or not such members continue to meet the disability criteria applicable in their cases. The following procedures shall govern disability reexamination cases:

(a) The Division will mail the member the following forms which are to be completed by the member and his or her physician and returned to the Disability Determination Section of the Division within 60 days, unless an extension of time is requested and approved by the Division:

1. Form FR-13e (Rev. 07/06), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00353>, "Florida Retirement System Retiree's Report of Continuing Disability" herein adopted by reference which may also be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area or locally at (850) 488-2968 or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771; and

2. Form FR-13f (Rev. 07/06), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00354>, "Florida Retirement System Physician's Report of Reexamination" herein adopted by reference, which may also be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area or locally at (850) 488-2968. Individuals with a hearing or speech impairment may call the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771.

(b) The Division will review the reports in subsection (a) and other available sources, such as, but not limited to, Workers' Compensation and Unemployment Compensation.

(c) If the Division finds the member continues to be disabled under the criteria used to determine the original disability, the member will be notified in writing of the findings and conclusions, and further, that disability benefits will continue to be paid.

(d) Based on the information obtained pursuant to the provisions of subsections (a) and (b), if the Administrator finds the member is no longer disabled and is employable under the criteria used to determine his or her original disability, the member will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her disability retirement benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

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(e) When a member receives notice that the Administrator intends to discontinue his or her disability retirement benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The member may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her retirement benefit will continue subject to reconsideration.

(f) After reconsideration of the member's file, including any additional evidence or written statement submitted by the member or obtained by the Division, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail if the member was found not to be disabled or by regular mail if the member was found to be disabled. Such written final decision shall give the reasons for the decision and will notify the member that his or her benefits will continue if he or she is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

(g) If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S. and Chapter 60R-1, F.A.C., a hearing before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives the Administrator's final decision.

(h) The decisions of the State Retirement Commission on matters brought before it under this section shall be final agency action.

(i) The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

(11) An FRS member who has completed the vesting requirements as provided in paragraph 60S-4.003(1)(b), F.A.C., with service as a justice of the supreme court, judge of a district court of appeals, circuit judge, judge of a county court, or as an elected constitutional Judicial Officer, including service as a Judicial Officer in any court abolished pursuant to Article V of the State Constitution and who is retired for disability by order of the supreme court upon recommendation of the Judicial Qualifications Commission pursuant to the provisions of Article V, State Constitution, shall:

(a) Receive an Option 1 monthly benefit as provided in paragraph 60S-4.010(1)(a), F.A.C., that shall be not less than two-thirds of his or her monthly compensation as of his or her disability retirement date; or he or she may elect to receive a disability retirement benefit under any other option as provided in subparagraph 60S-4.007(5)(b)2., F.A.C.; and

(b) Have all contributions made by him or her or his or her employer in his or her behalf transferred to the General Revenue Fund of the State; and

(c) Have the amount necessary to pay his or her benefits appropriated annually from the General Revenue Fund and paid into the Florida Retirement System Trust Fund.

(12) A member of the State and County Officers' and Employees' Retirement System (SCOERS) shall be eligible to apply for a disability benefit in accordance with Chapter 122, F.S., provided:

(a) The member's eligibility to apply is verified by the Administrator upon the receipt of Form SR-13, State and County Officers' and Employees' Retirement System Application for Disability Retirement, as adopted in Rule 60S-4.0035, F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements of Chapter 122, F.S., the Administrator will then consider the members' disability claim (Form SR-13).

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he or she may petition in writing the Division of Retirement for an administrative hearing pursuant to Chapter 120, F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(13) A SCOERS member who is eligible in accordance with subsection 60S-4.007(12), F.A.C., shall receive a disability benefit provided:

(a) The member satisfies the eligibility criteria of Chapter 122, F.S. and provides documentation to substantiate satisfaction of the eligibility criteria; and

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(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division which must include documentation attesting to the criteria in paragraph (a):

1. Application for Disability Retirement, Form SR-13, State and County Officers' and Employees' Retirement System Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C., completed by the member;

2. Statement of Disability by Employer, Form SR-13a (Rev. 09/71), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00374>, State and County Officers' and Employees' Retirement System Statement of Disability by Employer, herein adopted by reference and which may be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968, or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771, to be completed by the member's employer;

3. A Physician's Report, Form SR-13b (Rev. 09/71), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00375>, State and County Officers' and Employees' Retirement System Physician's Report, herein adopted by reference, which may be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968, or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771, to be completed by a Florida licensed physician;

4. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates all employment; and

(d) Upon receipt of the completed application and all required documents as provided in paragraph 60S-4.007(13)(b), F.A.C., the Administrator shall determine if the member is disabled by reason of a medically determinable physical or mental impairment in accordance with Chapter 122, F.S. If a high hazard member has applied for in-line-of-duty disability, the Administrator will also determine if the member's injury or illness arose out of and in the actual performance of duty required by the member's employment.

(e) The member shall be notified of the Administrator's approval as follows:

1. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits in accordance with Chapter 122, F.S.

2. For a high hazard member who has applied for in-line-of-duty disability benefits, if the Administrator determines that such member's illness or injury did not arise out of and in the actual performance of duty required by the member's employment, the Administrator shall notify the member that his or her application for in-line-of-duty disability benefits is denied. Such member may choose to appeal the Administrator's denial of in-line-of-duty disability benefits as provided in subsection 60S-4.007(3), F.A.C.

(14) The Division of Retirement may conduct periodic reexaminations of members who have been granted either regular or in-line-of-duty disability under the provisions of Chapter 122, F.S., to determine whether or not such members continue to meet the disability criteria applicable in their cases. The following procedures shall govern disability reexamination cases:

(a) The Division will mail the member forms SR-13e (Rev.10/86), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00376>, State and County Officers' and Employees' Retirement System Retiree's Report of Continuing Disability and SR-13f (Rev. 07/81), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00377>, State and County Officers' and Employees' Retirement System Physician's Report of Reexamination, herein adopted by reference, which may be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968, or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771. Such forms should be completed by the member and his or her physician and returned to the Disability Determination Section within 60 days, unless an extension of time is requested and approved by the Division.

(b) The Division will review the reports in paragraph (a) and other available sources, such as, but not limited to, Workers' Compensation and Unemployment Compensation.

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(c) If the Division finds the member continues to be disabled under the criteria used to determine the original disability, the member will be notified in writing of the findings and conclusions, and further, that disability benefits will continue to be paid.

(d) Based on the information obtained pursuant to the provisions of paragraphs (a) and (b), if the Administrator finds the member is no longer disabled and is employable under the criteria used to determine his original disability, the member will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her disability retirement benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

(e) When a member receives notice that the Administrator intends to discontinue his or her disability retirement benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The member may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her retirement benefit will continue subject to reconsideration.

(f) After reconsideration of the member's file, including any additional evidence or written statement submitted by the member or obtained by the Division, the Administrator shall within 21 calendar days provide a written final decision on the merits to the member by certified mail giving the reasons for the decision and will notify the member that his or her benefits will continue if he or she is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

(g) If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S. and Chapter 60R-1, F.A.C., a hearing before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives the Administrator's final decision.

(h) The decisions of the State Retirement Commission on matters brought before it under this section shall be final agency action.

(i) The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

(15) A member of the Teachers' Retirement System (TRS) shall be eligible to apply for a disability benefit in accordance with Chapter 238, F.S., provided:

(a) The member's eligibility to apply is verified by the Administrator upon the receipt of Form TR-13, Teachers' Retirement System Application for Disability Retirement, as adopted in Rule 60S-4.0035, F.A.C., according to the following:

1. If the Administrator determines that the member has satisfied the eligibility requirements of Chapter 238, F.S., the Administrator will then consider the members' disability claim (Form TR-13).

2. Should the Administrator determine that the member has failed to satisfy such eligibility requirements, the member shall be notified by certified mail with return receipt requested. If the member disagrees with the determination, he or she may petition in writing the Division of Retirement for an administrative hearing pursuant to Chapter 120, F.S. If no petition is filed within 21 calendar days of receipt of the certified letter, the determination will become final.

(16) A member who is eligible in accordance with subsection 60S-4.007(15), F.A.C., shall receive a disability benefit provided:

(a) The member satisfies the eligibility criteria of Chapter 238, F.S. and provides documentation to substantiate satisfaction of the eligibility criteria; and

(b) The member makes proper application in accordance with Rule 60S-4.0035, F.A.C., and submits the following to the Division:

1. Application for Disability Retirement, Form TR-13, Teachers' Retirement System Application for Disability Retirement, adopted in Rule 60S-4.0035, F.A.C., completed by the member;

2. Statement of Disability by Employer, Form TR-13a (Rev. 10/86), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00385>, Teachers' Retirement System Statement of Disability by Employer, herein adopted by reference, which may be obtained by calling the Division's Disability

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Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968, or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771, to be completed by the member's employer; and

3. A Physician's Report, Form TR-13b (Rev. 10/86), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00386>, Teachers' Retirement System Physician's Report, herein adopted by reference, which may be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968, or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771, to be completed by a Florida licensed physician; and

4. Documentation attesting to the criteria in paragraph (a); and

5. Any other evidence of disability requested by the Administrator which may include reports from vocational rehabilitation, evaluation, or testing specialists who have evaluated the applicant for employment; and

(c) The member terminates for the type of position the member is presently employed in; and

(d) Upon receipt of the completed application and all required documents as provided in paragraph 60S-4.007(15)(b), F.A.C., the Administrator shall determine if the member is totally and permanently disabled by reason of a medically determinable physical or mental impairment in accordance with Chapter 122, F.S. If the Administrator approves the member's application for regular disability or in-line-of-duty disability benefits the member shall be notified and shall receive benefits in accordance with Chapter 122, F.S.

(e) If the Administrator denies the member's application for regular disability or in-line-of-duty disability, such member may choose to appeal the Administrator's denial as provided in subsection 60S-4.007(3), F.A.C.

(17) The Division of Retirement may conduct periodic reexaminations of members who have been granted disability under the provisions of Chapter 238, F.S., to determine whether or not such members continue to meet the disability criteria applicable in their cases. The following procedures shall govern disability reexamination cases:

(a) The Division will mail the member forms TR-13e (Rev. 02/88), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00387>, Teachers' Retirement System Retiree's Report of Continuing Disability and TR-13f (Rev.07/81), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00388>, Teachers' Retirement System Physician's Report of Reexamination, herein adopted by reference, which may also be obtained by calling the Division's Disability Determination Section Toll Free at (877) 738-3725, if calling from outside the Tallahassee calling area, or locally at (850) 488-2968, or if hearing or speech impaired by calling the Division via T.D.D. at the Florida Relay System by dialing 711 or (800) 955-8771. Such forms should be completed by the member and his or her physician and returned to the Disability Determination Section within 60 days, unless an extension of time is requested and approved by the Division.

(b) The Division will review the reports in subsection (a) and other available sources, such as, but not limited to, Workers' Compensation and Unemployment Compensation.

(c) If the Division finds the member continues to be disabled under the criteria used to determine the original disability, the member will be notified in writing of the findings and conclusions, and further, that disability benefits will continue to be paid.

(d) Based on the information obtained pursuant to the provisions of subsections (a) and (b), if the Administrator finds the member is no longer disabled and is employable under the criteria used to determine his or her original disability, the member will be notified by certified mail of the initial findings and conclusions and that the Administrator intends to discontinue his or her disability retirement benefit. The notice shall include a summary of the factual, legal and policy grounds for the intended decision.

(e) When a member receives notice that the Administrator intends to discontinue his or her disability retirement benefits, he or she shall have 21 calendar days to present written evidence in opposition to the intended action or written objections challenging the grounds upon which the Administrator has based his or her intended decision. The member may submit additional evidence or a written statement for reconsideration of the Division's denial of benefits and his or her retirement benefit will continue subject to reconsideration.

(f) After reconsideration of the member's file, including any additional evidence or written statement submitted by the member or obtained by the Division, the Administrator shall within 21 calendar days provide a written final

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decision on the merits to the member by certified mail giving the reasons for the decision and will notify the member that his or her benefits will continue if he or she is found to be disabled or will terminate effective the first day of the following month if he or she is found to be not disabled.

(g) If the member does not accept the Administrator's final decision on the merits, the member may request in writing, pursuant to Section 121.23, F.S. and Rule Chapter 60R-1, F.A.C., a hearing before the State Retirement Commission pursuant to Section 120.57(1), F.S. Such request shall be filed with the Commission within 21 calendar days from the date the member receives the Administrator's final decision.

(h) The decisions of the State Retirement Commission on matters brought before it under this section shall be final agency action.

(i) The decisions of the State Retirement Commission shall be reviewable by the District Court of Appeal pursuant to Section 121.23, F.S.

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