



FRST TODAY

FLORIDA RETIREMENT SYSTEM

PENSION & INVESTMENT PLANS

Disability Benefits

2021 EDITION

Department of
**MANAGEMENT
SERVICES**

▶ Retirement



DISCLAIMER

As much as possible, this booklet has been written in nontechnical terms, avoiding the formal language of retirement laws and rules. If questions of interpretation arise as a result of the attempt to make the retirement provisions easy to understand, Chapter 121 of the Florida Statutes and Chapters 60S and 19 of the Florida Administrative Code must remain the final authority.

The information provided in this booklet is based on the Florida Retirement System (FRS) laws and rules in existence through July 2021 and is subject to modification based on changes in the law or the Florida Administrative Code.

Representatives from participating agencies are not agents of the Department of Management Services' Division of Retirement or the State Board of Administration (SBA). The division and SBA are not responsible for erroneous information provided by representatives of participating agencies.

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CONTACTING THE DIVISION

When you write the division, include your full name (printed and signed), the last four digits of your Social Security number, your return address, and your daytime telephone number.

If you are unable to manage your affairs, a copy of the power of attorney or guardianship papers authorizing someone to act on your behalf must be submitted to the division.

If you are writing to the division, please address your correspondence to the following:

**DIVISION OF RETIREMENT
P.O. BOX 9000
TALLAHASSEE, FL 32315-9000**

The following telephone number and fax number will help you reach the Division of Retirement.

Telephone (Toll-Free)844-377-1888
Telephone.....850-907-6500
Fax number.....850-410-2010

If you have a hearing or speech impairment, you may call the division via T.D.D. at the Florida Relay System by dialing 711 or 800-955-8771.

You may visit the division at the address below without an appointment, but you must bring a photo ID. Our hours are Monday through Friday from 8:00 a.m. until 5:00 p.m., Eastern time, except on designated state holidays.

The Division of Retirement is located at:

**3189 S BLAIR STONE RD
TALLAHASSEE, FL 32301-6812**

WHAT IS DISABILITY RETIREMENT?

The FRS provides disability retirement as a source of income to eligible members of the FRS Pension Plan (Pension Plan) and FRS Investment Plan (Investment Plan) who become totally and permanently disabled and unable to work.

Types of Disability Retirement

Two types of disability retirement are available under the FRS, regular and in-line-of-duty disability retirement:

1. You may be eligible for regular disability retirement if you become disabled as a result of an illness or injury not related to your FRS covered employment.
2. You may be eligible for in-line-of-duty disability retirement if you are disabled as a result of an illness or injury that occurs during and as a result of the performance of your duties as required by your FRS employer.

Disability Must Be Total and Permanent

The FRS does not provide temporary or partial disability benefits. To qualify for disability retirement under the FRS, you must be totally and permanently disabled from performing any useful and efficient service as an officer or employee. If medical reports show that you are unable to continue in your present job but are able to perform another type of job, you will not be eligible for an FRS disability benefit. The fact that your current employer does not have a job available that you are capable of performing will not be considered proof of total and permanent disability.

Reference: Section 121.091(4)(a) and (b), Florida Statutes
Rule 60S-4.007(1) and (2), Florida Administrative Code

DISABILITY COVERAGE

Since June 1, 2002, the FRS has offered two primary retirement plan options: The Pension Plan, a defined benefit plan administered under part I of Chapter 121, Florida Statutes; and the Investment Plan, a defined contribution plan created under part II of Chapter 121, Florida Statutes. Both plans are funded by employee and employer contributions.

Disability coverage is available under both of these plans but may or may not be available under other state-administered retirement systems and programs.

The Pension Plan

Under the Pension Plan, the employee and the FRS participating employer make monthly contributions to provide the member with lifetime benefits after retirement, provided that the member meets certain age and/or service requirements. The service benefit is determined by a formula that is based on the member's earnings, length of service, and service value at retirement. However, if a Pension Plan member is totally and permanently disabled, monthly disability benefits may be available instead of service benefits. Disability coverage under the Pension Plan is the main focus of this publication.

Reference: Sections 121.091(4), 121.4501, 121.591(2), and 121.70,
Florida Statutes
Rule 60S-4.007, Florida Administrative Code

The Investment Plan

Under the Investment Plan, the employee and FRS participating employer make monthly contributions to an account set up for the member. The member controls how the contributions are invested among the plan's investment fund selections. The retirement benefit available under this plan is a distribution of the vested amount that has accumulated, plus gains, in the member's account after terminating from all employment with FRS participating employers.

If an Investment Plan member or Hybrid¹ member becomes totally and permanently disabled, monthly disability benefits may be available under section 121.591(2), Florida Statutes, instead of benefits that might otherwise be payable.

The Division of Retirement administers the disability program for the Investment Plan members who wish to receive monthly benefits through the Pension Plan. Any Investment Plan member who wishes to receive disability retirement benefits must, in addition to applying for benefits with the division (see Page 19):

- Transfer all moneys accumulated under the member's Investment Plan account to the FRS Trust Fund.
- Receive creditable service towards the years of service required to vest for disability benefits for service credit under the Investment Plan.

Eligibility requirements for disability retirement are the same for Investment Plan members and Pension Plan members as described elsewhere in this booklet (see Page 9).

Once an Investment Plan member's application for disability retirement has been approved, he or she will be paid monthly benefits as of the effective disability retirement date (see Page 22). The application for disability retirement may be cancelled as long as the cancellation request reaches the division before a disability retirement warrant has been deposited, cashed, or received by direct deposit. Upon timely cancellation of your disability retirement application, your active participation in the Investment Plan will be reinstated, and all transferred funds will be returned to your Investment Plan account.

Reference: Sections 121.091(4), 121.4501, 121.591(2), and 121.73,
Florida Statutes
Rules 19 and 60S-4.007, Florida Administrative Code

Closed Retirement Systems

Disability benefits available under the FRS differ from disability benefits available under the older, closed retirement systems. Active members of the Teachers' Retirement System should

¹ FRS Hybrid membership means the member is active in only one plan at a time with service accumulated and retained under another retirement plan in the system.

contact the Division of Retirement (see Page 3) for details regarding their system's disability coverage.

Reference: Sections 238.06(10), 238.07(10)-(12) and (15B), 238.071(16)(d), 238.09(1)(f) and (2), and 238.181, Florida Statutes
Rule 60S-4.007, Florida Administrative Code

Other Optional Retirement Programs

Certain members have the opportunity to participate in various nonintegrated optional defined contribution retirement programs instead of the FRS. These optional programs include the following:

- The Senior Management Service Optional Annuity Program² (SMSOAP), which is available to state senior managers;
- The State University System Optional Retirement Program (SUSORP), which is available to faculty, administrative and professional, and executive service employees in the State University System (faculty in a college of medicine within a state university are required to participate in this program);
- The State Community College System Optional Retirement Program (SCCSORP), which is available to faculty and certain administrators in Regular Class positions of a state college in the State College System if their college offers an optional retirement program.

Additionally, local government senior managers may choose to opt out of the FRS altogether.

No FRS disability coverage is available under these optional retirement programs. The disability retirement benefit is the accumulated contributions and earnings in the participant's account. However, the employer may separately offer disability coverage or disability insurance. If you become disabled while participating in one of these programs, check with your human resource officer to see what benefits may be available to you.

Reference: Sections 121.055(6) (b), 121.35(3)(g), and 1012.875(3)(g), Florida Statutes
Rule 19-10.003, 60S-4.007, Florida Administrative Code

² This program is closed to new members effective July 1, 2017.

The Deferred Retirement Option Program (DROP)

The DROP offered under the Pension Plan allows members who are eligible for normal service retirement to effectively retire and continue working for a limited time while their monthly retirement benefits, plus any applicable cost-of-living adjustment and interest, accumulate on a tax-deferred basis in the FRS Trust Fund. When a participant's DROP period ends, the participant must terminate all employment with FRS participating employers to receive the DROP accumulation and begin receiving monthly retirement benefits in the amount determined at time DROP participation began, plus any applicable cost-of-living adjustment.

Reference: Section 121.091(13)(c), Florida Statutes
Rule 60S-11.001, 11.002, and 11.004, Florida Administrative Code

Disability Retirement and the DROP

DROP participants are not eligible for FRS disability benefits because they are considered retired under the FRS when DROP participation begins. Under the FRS, once you have retired, you may not change your type of retirement from a normal service retirement to a disability retirement. If you become disabled while in DROP, you will receive the funds accumulated in DROP up to the month you terminate employment and end your DROP participation and begin receiving your monthly service retirement benefit.

Your employer might offer other disability benefits or provide disability insurance apart from your FRS retirement benefit. Check with your human resource officer to ensure that you are receiving all the benefits available to you.

Reference: Sections 121.091(4)(b) and (c) and (13)(c)7, Florida Statutes
Rules 60S-4.002(4), 4.007, and 11.004(6), Florida Administrative Code

ELIGIBILITY FOR DISABILITY BENEFITS

Disability coverage is available for active members of the Pension Plan and Investment Plan. If you are a retiree of either plan with renewed membership or if you are in DROP, you are not eligible for disability benefits.

To qualify for disability retirement under the Pension Plan or Investment Plan, you must be totally and permanently disabled, that is, prevented by reason of a medically diagnosed physical or mental impairment from performing useful and efficient service as an officer or employee. Your disabling injury or illness must have occurred or become symptomatic before you terminated covered employment.

Reference: Sections 121.091(4)(a)-(c), 121.4501(16), and 121.591(2),
Florida Statutes
Rule 60S-4.007, Florida Administrative Code

Regular Disability

As of July 1, 2001, to qualify for regular disability retirement, you must complete at least eight years of creditable service regardless of the other vesting requirements for your membership class or plan.³

Generally, Pension Plan members initially enrolled prior to July 1, 2011, vest for service retirement with six years of creditable service. If the members were initially enrolled on or after July 1, 2011, the vesting requirement is eight years of creditable service. If you are vested for service retirement under the Pension Plan but have fewer than eight years of creditable service, you may be eligible to purchase optional service credit to meet the vesting requirement for regular disability retirement, such as credit for an approved leave of absence, military service, in-state service, or out-of-state public service.⁴

³ If you terminated FRS covered employment before July 1, 2001, and since then have not been employed in FRS covered employment, you must have 10 years of creditable service to qualify for regular disability retirement benefits based on a disability sustained during your prior covered employment because you are still subject to the disability vesting law in effect before that date.

⁴ See the FRS Member Handbook for more information on the purchase of optional service credit under the Pension Plan.

Investment Plan members are vested in employer contributions made to their Investment Plan account after one year of creditable service. If initially enrolled prior to July 1, 2011, Investment Plan members must have six years of creditable service to vest in any opening account balance transferred from the Pension Plan to the Investment Plan. If initially enrolled on or after July 1, 2011, Investment Plan members must have eight years of creditable service to vest in any opening account balance transferred from the Pension Plan to the Investment Plan. To qualify for regular disability retirement under the Investment Plan, members must have a total of eight years of creditable service.⁵ Investment Plan members are not eligible to buy optional service credit.

Contact the Division of Retirement for more information about vesting for disability benefits (see Page 3).

Note: The fact that you have sufficient creditable service to qualify for regular disability retirement does not qualify you for a disability benefit for any disability that occurs after you have terminated employment.

Reference: Sections 121.091(4)(a) and 121.591(2)(b), Florida Statutes
Rule 60S-4.007, Florida Administrative Code

In-Line-of-Duty Disability

You are covered for in-line-of-duty disability from your first day of employment. If you believe the illness or injury that caused your total and permanent disability happened during and as a result of the actual performance of your duties as required by your employer, you may apply for in-line-of-duty disability retirement benefits.

Special presumptions apply for specified professions and diseases:

- If you are a firefighter, law enforcement officer, or correctional officer who is disabled because of tuberculosis, heart disease, or hypertension, your disability is presumed to have occurred in the line of duty unless competent evidence proves otherwise. To qualify for the presumption, you must have successfully passed a

⁵ For members of the Investment Plan, creditable service under both the Pension Plan and the Investment Plan may be combined to meet the eight-year vesting requirement for disability retirement.

pre-employment physical examination that failed to reveal evidence of the condition.

- If you are a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who is disabled because of hepatitis, meningococcal meningitis, or tuberculosis, your disability is presumed to have occurred in the line of duty unless competent evidence proves otherwise. You must have passed a pre-employment physical examination that failed to reveal any evidence of the communicable disease and must submit an affidavit attesting that you have not been exposed to the disease outside the scope of your employment. You may be required to establish that you have received a standard medically recognized vaccination, immunization, or other preventive measure, if available. You may also be asked to supply a copy of the accident report indicating suspected or known exposure. Any exposures should be recorded by your employer.
- If you are firefighter, your disability is presumed to have occurred in the line of duty if resulting from, or arising from the treatment of one of the 21 cancers defined in section 112.1816, Florida Statutes. The employer must provide verification of the firefighter's full-time status and certify the employer is a fire department or public safety department whose primary responsibilities are the prevention and extinguishing of fires; the protection of life and property; and the enforcement of municipal, county, state fire prevention codes and laws pertaining to the prevention and control of fires. Disability retirement benefits under this provision must be effective on or after July 1, 2019.

If you are a first responder as defined by section 112.1815(1), Florida Statutes, who is disabled

- As a result of exposure to a toxic substance, your disability will be considered to have occurred in the line of duty only if there is a preponderance of the evidence that the levels of the substance to which you were exposed in the line of duty could cause your disability;

- By an adverse result or complication caused by a smallpox vaccination, your disability is presumed to have occurred in the line of duty; and
- By a mental or nervous injury, your disability will be presumed to have occurred in the line of duty.⁶

Note: As with regular disability retirement, you are not eligible for an in-line-of-duty disability benefit for any disability that occurs after you have terminated employment.

Reference: Sections 112.18, 112.181, 112.1815, and 121.091(4)(a), Florida Statutes
Rule 60S-4.007(2)(d), Florida Administrative Code

Proof of Disability

Before the division can make a determination on your application for disability retirement, proof of disability is required. Your total and permanent disability must be certified by two Florida-licensed physicians. If you are employed in an FRS covered position and are permanently assigned by your FRS participating employer to work outside the state of Florida but within the United States, two physicians licensed by that state may certify your total and permanent disability. Effective July 1, 2020, if you are receiving care at a federal Veterans Health Administration facility, you may include certification by two licensed physicians working at the facility. All physician certifications must be supported by such other evidence as may be required. It must be documented that

- Your disability was due to a medical condition that occurred or became symptomatic while you were actively employed in an FRS covered position;⁷
- You were totally and permanently disabled when you terminated covered employment; and
- You have not been employed with any employer since becoming totally and permanently disabled.

In addition, to qualify for in-line-of-duty disability benefits, the disability must have been caused by a job-related illness or

⁶ Prior to Oct. 1, 2018, the mental or nervous injury must result from a physical injury that occurred in the line of duty.

⁷ Active employment includes any period that you are in an employer-employee relationship, including approved leaves of absence.

accident that occurred while you were working in an FRS covered position.

The unavailability of employment that you are capable of performing is not considered proof of your total and permanent disability. Even if medical reports indicate that you are unable to continue in your present occupation, as long as you can perform another type of work, you will not be eligible for a disability benefit.

Reference: Sections 121.091(4)(c) and 121.591(2)(e), Florida Statutes
Rule 60S-4.007(2), Florida Administrative Code

Non-Admissible Causes of Disability

The FRS does not provide disability benefits for disability that results from any injury or disease which happens after your employment has terminated. Also, you are not eligible for disability benefits if your disabling injury or disease happens while willfully participating in a riot, civil insurrection, or other act of violence or while committing a felony. You are not eligible for a disability benefit for intentional self-inflicted injury. Disability resulting from drug or alcohol abuse is not considered suffered in the line of duty, except for undercover law enforcement officers who are expected to consume alcohol in the course of their work.

Reference: Sections 121.091(4)(i) and 121.591(2)(l), Florida Statutes
Rule 60S-4.007(7), Florida Administrative Code

WORKERS' COMPENSATION AND SOCIAL SECURITY DISABILITY BENEFITS

The fact that you are approved for workers' compensation or Social Security Disability benefits does not mean that you will be approved for disability benefits under the FRS. However, being approved for workers' compensation or Social Security Disability may help support your claim if you apply for FRS disability benefits.

You may be entitled to retirement credit for time that you received workers' compensation. If you are approved for disability retirement under the FRS or if you recover and return to covered employment for one calendar month or longer, you will receive, at no cost to you, full retirement credit for the time that you received temporary total or temporary partial workers' compensation payments until you either reached maximum medical improvement

or terminated employment. Your effective disability retirement date may not be prior to the date you reach maximum medical improvement, unless you terminate employment before that date.

Different requirements apply to benefits available under the FRS than those that apply to workers' compensation benefits or federal benefits provided under Social Security and Medicare. The FRS has no authority over Social Security, workers' compensation, or Medicare benefit payments. For more information on workers' compensation, please contact the Division of Workers' Compensation's Employee Assistance Office toll-free at 800-342-1741 or at 850-413-1610 if you're in the Tallahassee local calling area. For more information on Social Security or Medicare benefits and possible limitations on those benefits, contact your local Social Security office or call the Social Security Administration's toll-free information number at 800-772-1213.

Note: Under workers' compensation law, your workers' compensation benefit may be offset against other disability benefits you receive so that your combined benefits do not exceed a statutory threshold. In other words, if you get workers' compensation, FRS or other disability benefits, and/or Social Security Disability benefits, your employer may be entitled to reduce your workers' compensation if your combined benefits would provide you an income that is higher than that allowed by law, based on your pre-disability income.

Reference: Sections 121.021(13), 121.091(4)(a), 121.125, 440.02, and 440.15, Florida Statutes

LEGAL REPRESENTATIVES

If a member or retiree is determined by a judge to be physically or mentally incapacitated, the judge will then appoint a legal guardian. The guardian must furnish the division with a copy of the Letters of Guardianship in order to act on behalf of the member or retiree. The guardian will be notified if any other documentation is needed.

A member or retiree may grant a durable power of attorney to someone else to handle financial affairs. A copy of the current durable power of attorney must be provided to the division. The person appointed as attorney-in-fact through the durable power of attorney will be notified if any other documentation is needed. The division does not accept medical powers of attorney.

A legal guardian or attorney-in-fact may submit an application for retirement on behalf of a member and is allowed to make changes to the deduction, address, and direct deposit information for the member or retiree.

BENEFICIARY DESIGNATION

At any time before you retire, you may name a beneficiary or beneficiaries to receive any benefits that may be payable in the event of your death. As a member of the Pension Plan or the Investment Plan, you are encouraged to designate one or more persons as your beneficiary or beneficiaries and to keep your designation up to date. You may state that your beneficiaries share jointly or sequentially or specify that any benefits due be paid through a trust. If you fail to name a beneficiary or if your beneficiary has died, any benefits due upon your death will be paid according to Florida law.

Option Selection and Beneficiary Designation

When you apply for disability retirement under either the Pension Plan or Investment Plan, you will be asked to designate a new beneficiary. You may do this on your disability retirement application (see Page 19) or by making a new beneficiary designation.

The disability benefit payment option⁸ you select can affect your choice of beneficiary:

- If you choose Option 1 or 2, you may name as beneficiary any person, organization, or trust or your estate.
- If you choose Option 2, you may name one or more contingent beneficiaries to receive any benefits remaining after you and your primary beneficiaries have died.
- If you choose Option 3 or 4, your beneficiary must qualify as your joint annuitant (see Page 25). If you name your spouse, you will be asked to provide a marriage certificate.
- If you choose Option 3, you may name more than one joint annuitant and specify the share to be paid to each, but if you choose Option 4, you may name only one joint annuitant.

Forms for designating or changing beneficiaries and for selecting a benefit payment option are available on request from the division or from your employer's human resource office. These

⁸ See Page 24 for more on benefit payment options.

forms can also be found on the Forms page of the division's website at frs.myflorida.com.

Miscellaneous Provisions

Provisions in the law could affect you or the person(s) you would prefer to receive benefits when you die:

- **Automatic designation of spouse** – If you die before your effective retirement date as a member of the Pension Plan, your spouse at the time of your death will automatically be your beneficiary unless you named a different beneficiary after your most recent marriage. If you die after you retire, your most recently designated beneficiary receives any benefits payable, regardless of any life changes that may have occurred since you retired (such as divorce, remarriage, or death of a beneficiary).
- **Death in the line of duty** – If you die in the line of duty as a Pension Plan or Investment Plan member in the Special Risk Class on or after July 1, 2002, your surviving spouse is eligible for a lifetime monthly benefit equal to 100 percent of your contracted salary, regardless of your length of service or whether you named someone else as your beneficiary. If you are not married and have a dependent child or children at the time of your death or if you are married and your spouse dies before your youngest child reaches age 18, the benefit may continue until the child reaches age 25 if the child is unmarried and enrolled in school full time.

If you die in the line of duty as a Pension Plan or Investment Plan member in a class other than the Special Risk Class on or after July 1, 2002, your surviving spouse is eligible for a lifetime monthly benefit equal to half of your contracted salary, regardless of your length of service or whether you named someone else as your beneficiary. If you are not married and have a dependent child or children at the time of your death or if you are married and your spouse dies before your youngest child reaches age 18, the benefit will be paid on behalf of your unmarried children until the youngest child reaches age 18. This provision also applies if you are disabled in the line of duty as a member of the Pension Plan and are approved for disability retirement but die before your effective retirement date as a result of your illness or injury. If you are approved for