WEST VIRGINIA CODE: §15-2A-11

§15-2A-11. Same -- Physical examinations; termination.

(a) The board may require any disabled retirant to submit to a physical or mental examination or both a physical and mental examination by a physician or physicians selected or approved by the board and the physician or physicians shall submit a report of the findings of the physician or physicians in writing to the board for its consideration. All medical costs associated with the examination shall be paid by the fund. If from the report, or from the report and hearing on the report, the board is of the opinion and finds that the disabled retirant has recovered from the disability to the extent that he or she is able to perform adequately the duties of a law-enforcement officer, the board shall within five working days provide written notice of the finding to the Superintendent of State Police, who shall reinstate the retirant to active duty as a member of the department at his or her rank or classification prior to the disability retirement within forty-five days of the finding, unless the retirant declines to be reinstated, is found by a background check to be ineligible for reinstatement, or is found by the Superintendent to be unacceptable due to the retirant's performance history and evaluations during prior work with the department. The Superintendent shall promptly notify the board when the retirant is reinstated, is found ineligible for reinstatement due to a background check or unacceptable prior performance history or evaluations, or refuses reinstatement. The board shall order disability payments from the fund to be terminated at the earlier of the date of the retirant's reinstatement, regular retirement, failure of a background check, finding of unacceptable prior performance history or evaluation with the department, failure to accept reinstatement or forty-five days from the board's finding. If from the report, or the report and hearing on the report, the board is of the opinion and finds that the disabled retirant has recovered from his or her previously determined probable permanent disability to the extent that he or she is able to engage in any gainful employment, but unable to adequately perform the duties of a law-enforcement officer, the board shall order, in the case of a disabled retirant receiving benefits under the provisions of section nine of this article, that the disabled retirant be paid annually from the fund an amount equal to six tenths of the base salary paid to the retirant in the last full twelve-month employment period. The board shall order, in the case of a disabled retirant receiving benefits under the provisions of section ten of this article, that the disabled retirant be paid from the fund an amount equal to one fourth of the base salary paid to the retirant in the last full twelve-month employment period: Provided, That if the retirant had not been employed with the agency for twelve full months prior to the disability, the amount of monthly salary shall be annualized for the purpose of determining the benefit.

(b) A disability retirant who is returned to active duty as a member of the West Virginia State Police shall again become a member of the retirement system in which he or she was originally enrolled and the retirant's credited service in force at the time of retirement shall be restored.

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