

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(Amendment)

105 KAR 1:310. Fred Capps Memorial Act.

RELATES TO: KRS 16.505-16.652, ~~61.505~~~~[61.510]~~-61.705, 78.510-78.852

STATUTORY AUTHORITY: KRS ~~61.505(1)(f)~~~~[61.645(9)(g)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.621, The Fred Capps Memorial Act, establishes duty-related disability or death benefits for~~enables an nonhazardous employees of a state-administered retirement system~~ who ~~are~~is killed or ~~totally and permanently disabled from a duty-related injury~~to receive death or disability benefits equal to those received by hazardous employees under KRS 16.582. This administrative regulation establishes the procedure for filing an application or reapplication for duty-related death or disability benefits and the appeal procedure for duty-related death or disability~~injury~~ benefits for nonhazardous employees.

Section 1. Definitions.

- (1) Definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this regulation, unless otherwise defined herein.
- (2) Prior to April 1, 2021, "the Agency" means the Kentucky Retirement Systems, which administers the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "the Agency" means the Kentucky Public Pension Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.
- (3) "Applicant" means a member or retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or both who has applied or is applying for duty-related disability benefits in accordance with KRS 61.621, 61.665, and 78.545.
- (4) Prior to April 1, 2021, "DAC" means the Disability Appeals Committee of the Board of Trustees of the Kentucky Retirement Systems. Effective April 1, 2021, "DAC" means the separate or joint Disability Appeals Committees of the Board of Trustees of the Kentucky Retirement Systems and the Board of Trustees of the County Employees Retirement System in accordance with KRS 61.665(4) and 78.545.
- (5) "File" means the following methods for delivering or submitting a form or other documents to the retirement office, unless otherwise stated: mail, fax, in-person delivery, secure email, and upload via Self Service on the Web site maintained by the Agency (if available). A form or other document shall not be deemed filed until it has been received at the retirement office.
- (6) "Participating employer" means an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (7) For the purposes of this regulation only, "recipient" means a retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or both who is receiving duty-related disability benefits in accordance with KRS 61.621, 61.665, and 78.545.
- (8) "Valid," when used in reference to a form, means that all required sections on a form are completed and all required signatures on a form are executed.
- (9) "Invalid," when used in reference to a form, means that the form is deficient and shall not be accepted or processed by the Agency.

Section 2. Use of Third-party Vendors.

- (1) The Agency may contract with third-party vendors to act on its behalf throughout the duty-related disability and duty-related death benefit application and review process. The Agency may also contract with third-party vendors to act on its behalf throughout the periodic review, reinstatement review, and employment review processes.
- (2) The Agency may utilize independent, licensed physicians provided by third-party vendors to serve as medical examiners pursuant to KRS 61.665 and 78.545. Third-party vendors may also provide additional persons to fulfill non-physician roles throughout the duty-related disability and duty-related death benefit application process.
- (3) For purposes of this regulation, third-party vendors may act on behalf of the Agency and the Systems with all the rights and responsibilities therein.

Section 3. Application for Duty-Related~~[Injury]~~ Death Benefits.

- (1)
- (a) A written request for duty-related~~[injury]~~ death benefits pursuant to KRS 61.621 and 78.545 shall~~[may]~~ be filed~~[made]~~ by the surviving spouse,~~[or]~~ dependent child, or parent or guardian of dependent child at the retirement~~[Frankfort]~~ office~~[of the Kentucky Retirement Systems].~~
- (b) The Agency may notify the surviving spouse, dependent child, or parent or guardian of the dependent child of their ability to file a written request for duty-related death benefits if the Agency becomes aware of a nonhazardous employee potentially killed as a result of a duty-related injury.
- (c) A claim for duty-related~~[injury]~~ death benefits shall be verified by the deceased employee's immediate supervisor and agency head on the ~~["]~~Form 6800, "Application for Death Benefits Duty Related/In Line of Duty."~~[.]~~
- (2)
- (a) The participating employer, surviving spouse, ~~[or]~~ dependent child, or parent or guardian of dependent child shall submit the following documents:
1. A copy of the death certificate;
 2. The employer death investigation report; and
 3. An employee job description provided by the participating employer.
- (b) The Agency~~[retirement system]~~ may request additional information;~~[or]~~ medical records, including hospital, emergency room, autopsy, or other related records; ~~[.]~~documentation relating to Workers' Compensation claims; and police or other crime reports, if necessary, from the participating employer, surviving spouse, ~~[or]~~ dependent child, or parent or guardian of dependent child.
- (3) The application for duty-related~~[injury]~~ death benefits and accompanying documentation as listed in subsection (2) of this Section shall be reviewed by the Agency's~~[board's]~~ medical examiners, or the Agency's third-party vendor, and administered in the same manner as provided in KRS 16.582, 78.5524,~~[and]~~ 61.665, and 78.545.

Section 4. ~~[Section 2.]~~ Application for Duty-Related~~[Injury]~~ Disability Benefits.

- (1)
- (a) A claim for duty-related~~[injury]~~ disability benefits pursuant to KRS 61.621 and 78.545 shall be filed by the applicant~~[employee]~~ at the retirement~~[Frankfort]~~ office~~[of the Kentucky Retirement Systems].~~
- (b) An application for duty-related~~[injury]~~ disability benefits shall be made by the applicant~~[employee]~~ on the ~~["]~~Form 6000, "Notification of Retirement."~~[.]~~
- (2) The applicant shall be required to file the following forms and information to the retirement office along with a valid application for duty-related disability benefits in accordance with subsection (1) of this Section:
- (a) A Workers' Compensation incident report, where one exists;
 - (b) A valid Form 8035, "Employee Job Description;"

- (c) A valid Form 8040, "Prescription and Nonprescription Medications;"
- (d) Supporting medical information; and
- (e) Once all supporting medical information has been submitted, a valid Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information."
- (3) The applicant's participating employer shall complete and submit to the retirement office a Form 8030, "Employer Job Description."
- (4) The applicant and the applicant's employer shall file or submit additional information regarding the applicant's job duties and reasonable accommodations upon request by the Agency or a third-party vendor on its behalf.
- (5) The application for duty-related~~[-injury]~~ disability benefits and accompanying documentation as listed in subsections (2), (3), and (4) of this section shall be reviewed by the Agency's~~boards'~~ medical examiners, or the Agency's third-party vendor, and administered in the same manner as provided in KRS 16.582, 78.5524,~~[-and]~~ 61.665, and 78.545.

Section 5. Joint Application for Duty-Related Disability Benefits and Disability Retirement Benefits.

- (1) If qualified to retire on disability pursuant to KRS 61.600 and 78.5522, an applicant may apply for both duty-related disability benefits in accordance with KRS 61.621 and 78.545 and disability retirement benefits in accordance with KRS 61.600 and 78.5522 using the same valid Form 6000, "Notification of Retirement."
- (2)
 - (a) If an applicant qualified to retire on disability applies for both duty-related disability benefits in accordance with KRS 61.621 and 78.545 and disability retirement benefits in accordance with KRS 61.600 and 78.5522 using the same Form 6000, "Notification of Retirement," and is approved only for disability retirement benefits by a majority or greater of the reviewing medical examiners pursuant to KRS 61.665 and 78.545, the applicant may solely appeal the denial of duty-related disability benefits in the same manner provided for disability retirement benefits in KRS 61.665(2)(f), 61.665(2)(h), and 78.545.
 - (b) A request for an administrative hearing to solely appeal the denial of duty-related disability benefits shall not affect the disability retirement benefits of an applicant who has been approved for disability retirement benefits under KRS 61.600 and 78.5522, except as provided in KRS 61.685 and 78.545.
- (3) If an applicant qualified to retire on disability applies for both duty-related disability benefits in accordance with KRS 61.621 and 78.545 and disability retirement benefits in accordance with KRS 61.600 and 78.5522 using the same Form 6000, "Notification of Retirement," and is denied for both by a majority or greater of the reviewing medical examiners pursuant to KRS 61.665 and 78.545, the applicant may appeal both the denial of duty-related disability and disability retirement benefits as provided by KRS 61.665(2)(f), 61.665(2)(h), and 78.545.
- (4) A request for an administrative hearing to solely appeal the denial of duty-related disability benefits or to appeal denials of both duty-related disability benefits and disability retirement benefits must conform with Section 10.

Section 6. ~~[Section 3.]~~ Time Period for Filing.

- (1)
 - (a) The application or reapplication for duty-related~~[-injury]~~ death or duty-related ~~[-injury]~~ disability benefits shall be filed at the retirement office within twenty-four (24) months from the employee's last day of paid employment in a regular full-time position.

(b) The filing period shall begin on the day after the last day of paid employment in a regular full-time position and shall end at close of business on the ~~following~~ 730th calendar day.

(c) If the 730th day is on a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the public office is actually and legally closed, or any other state or federal holiday that disrupts mail service, then the application shall be timely if filed at the retirement office by the close of the next business day.

(d) If the 730th day is on a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the retirement office is actually and legally closed, or any other state or federal holiday that disrupts mail service, then the application or reapplication is not timely and the employee, surviving spouse, dependent child, or parent or guardian of dependent child is not qualified for duty-related death or duty-related disability benefits.

(e)

1. The applicant's last day of paid employment shall either be certified by the applicant's employer or filed by the applicant and corroborated by the reporting information received by the Agency from the applicant's employer.

2. In accordance with KRS 61.685 and 78.545, the applicant's last day of paid employment may be corrected at any time upon discovery of any error or omission in the Agency's records. ~~If the last day of the filing period is a Saturday, Sunday, or a state or federal holiday, then the application shall be timely filed if received in the retirement office by the close of the next business day following the weekend or holiday.~~

(2) If rejected, an employee's reapplication for duty-related~~injury~~ disability benefits based on the same claim of incapacity shall be reconsidered for disability if accompanied by new objective medical evidence or new evidence concerning the duty-related injury that was not considered with previous applications. The reapplication shall be filed at the retirement office within twenty-four (24) months from the employee's last day of paid employment in a regular full-time position.

Section 7. Effect of Application or Reapplication for Duty-Related Disability Benefits While Prior Application or Reapplication is Pending.

(1) If a subsequent valid reapplication for duty-related disability benefits that complies with Sections 4 and 6 is filed at the retirement office while a prior application or reapplication is pending review by the medical examiners under KRS 61.665 and 78.545, then the subsequent reapplication shall be accepted solely for the purpose of designating a new beneficiary in accordance with KRS 61.542 and 78.545. The subsequent reapplication shall not be submitted for review by the medical examiners.

(2)

(a) If a subsequent valid reapplication for duty-related disability benefits that complies with Sections 4 and 6 is filed at the retirement office after an applicant has requested an administrative hearing to appeal the denial of an earlier application or reapplication for duty-related disability benefits, but prior to a Final Order of DAC regarding the earlier application or reapplication, then the subsequently filed reapplication shall be deemed a notice of intent to dismiss the request for administrative hearing unless the applicant simultaneously files a written statement that the subsequently filed reapplication has been filed solely for the purpose of designating a new beneficiary in accordance with KRS 61.542 and 78.545.

(b) A subsequently filed reapplication as described in paragraph (a) of this subsection shall not be processed by the Agency until thirty-one (31) days after the entry of a Final Order of DAC dismissing the previously requested administrative appeal, except

that a new beneficiary designated on the subsequently filed reapplication in accordance with KRS 61.542 and 78.545 shall be effective immediately.

(c) All evidentiary filings made during an administrative hearing process to appeal the denial of an earlier application or reapplication for duty-related disability benefits shall be included in the information provided to the medical examiners for review of the subsequently filed reapplication.

(3).

(a).

1. If a subsequent valid reapplication for duty-related disability benefits is filed at the retirement office after DAC has issued a Final Order denying a prior application or reapplication for duty-related disability benefits and during the statutory time for appeal of the Final Order or after an appeal of the Final Order has been made, then the subsequently filed reapplication shall be accepted solely for the purpose of designating a new beneficiary in accordance with KRS 61.542 and 78.545.

2. The subsequent reapplication shall not be submitted for review by the medical examiners, unless the applicant files a written statement that the applicant will not appeal the Final Order of DAC or has withdrawn any pending appeal of a Final Order of DAC.

(b) If a subsequent valid reapplication for duty-related disability benefits is filed at the retirement office after DAC has issued a Final Order denying an application or reapplication for duty-related disability benefits, all applicable statutory time for appeals of the Final Order have lapsed, and the reapplication complies with KRS 61.621, 78.545 and Sections 4 and 6 of this administrative regulation, then the subsequently filed reapplication for duty-related disability benefits shall be valid.

Section 8. Medical or Psychological Examination Required at the Expense of the Agency.

(1) If the Agency requires an applicant to submit to a medical or psychological examination under KRS 61.665(2)(j) and 78.545 or KRS 61.665(3)(c) and 78.545, the Agency shall reimburse the applicant for expenses associated with the medical or psychological examination in the same manner as 105 KAR 1:210 Section 8.

(2) The applicant shall file the Form 8846, "Independent Examination Travel Voucher" and all necessary receipts at the retirement office within fifteen (15) days of the examination or evaluation in order to be reimbursed for mileage, actual parking costs, and any actual bridge or highway toll charges as described in subsection (1) of this section and 105 KAR 1:210, Section 8.

Section 9. Requests for Additional Objective Medical Evidence by the Medical Examiners.

(1) A medical examiner reviewing an application or reapplication for duty-related disability benefits or duty-related death benefits may place their recommendation on hold and request additional objective medical evidence.

(2) If two (2) or more of the three (3) medical examiners reviewing an application or reapplication for duty-related disability benefits or duty-related death benefits place their recommendation on hold and request additional objective medical evidence, then the Agency, or a third-party vendor, shall notify the applicant of the medical examiner's request for additional objective medical evidence. The applicant shall have sixty (60) days from the date of the notification to file the requested objective medical evidence to the retirement office.

(3) If there is no majority recommendation by the three (3) medical examiners reviewing an application or reapplication for duty-related disability benefits or duty-related death benefits because one (1) medical examiner recommends approval, one (1) medical examiner recommends denial, and one (1) medical examiner requests additional objective medical evidence, then the Agency, or a third-party vendor, shall notify the applicant of the medical examiner's request for additional objective medical evidence. The applicant

shall have sixty (60) days from the date of the notification to file the requested objective medical evidence to the retirement office.

(4)

(a) Upon receipt of the requested additional objective medical evidence with a valid Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information," the Agency, or a third-party vendor, shall resubmit the matter, including any additional objective medical evidence submitted in response to the medical examiner's request, to all three (3) medical examiners and the medical examiners shall issue new recommendations.

(b) Upon the expiration of sixty (60) days from the date of the notification, if no additional objective medical evidence with a valid Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information," is on file at the retirement office, the Agency, or a third-party vendor, shall resubmit the matter to only the medical examiner(s) that placed their recommendation on hold and the medical examiner(s) shall issue a new recommendation.

Section 10. Administrative hearings concerning the denial of duty-related disability or duty-related death benefits.

(1)

(a) A request by an applicant, surviving spouse, dependent child, or parent or guardian of a dependent child for an administrative hearing to appeal the denial of duty-related disability or duty-related death benefits under KRS 61.621, 61.665, and 78.545 shall be made in writing and contain a short statement of the issues being appealed.

(b) The written request for an administrative hearing to appeal the denial of duty-related disability or duty-related death benefits by an applicant, surviving spouse, dependent child, or parent or guardian of a dependent child shall be filed at the retirement office. Email requests shall not be accepted.

(2) The hearing officer presiding over an administrative hearing may allow an applicant, surviving spouse, dependent child, or parent or guardian of a dependent child to introduce, among other evidence, the determination of other state and federal agencies, including, but not limited to the Kentucky Department of Workers' Claims and the Social Security Administration, approving the applicant for benefits if accompanied by underlying objective medical evidence or vocational evidence.

(3) The hearing officer presiding over an administrative hearing shall consider only objective medical evidence and vocational records contained within or that accompany a determination by another state or federal agency.

(4) The hearing officer presiding over an administrative hearing shall not consider or be bound by factual or legal findings of other state or federal agencies.

(5) Statements by physicians within the administrative record of the application or reapplication for duty-related disability or duty-related death benefits shall not be considered by themselves to be objective medical evidence unless accompanied by documented medical records or test results.

Section 11. Employment and Medical Reviews. If, upon review in accordance with KRS 61.610, 61.615, 78.5528, or other applicable statute, the medical examiner, or third-party vendor, determines that a retired member receiving duty-related disability benefits no longer meets eligibility requirements, then the medical examiner, or third-party vendor, shall determine if the retired member is qualified and remains eligible for disability retirement benefits in accordance with KRS 61.600 and 78.5522.

[Section 4.]

[(1)] If the retirement systems requires an applicant to submit to a medical or psychological examination under KRS 61.665(2)(j) or (3)(c), the retirement systems shall

~~reimburse the applicant for mileage from the applicant's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement systems. The applicant shall be reimbursed for the most direct and usually traveled routes.]~~

~~[(2)] [Mileage shall be based on the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas." The applicant shall complete and submit a Form 8846, Independent Examination Travel Voucher indicating the mileage the applicant traveled from the applicant's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement systems. The applicant shall use the most direct and usually traveled routes.]~~

~~[(3)] [The mileage certified by the applicant shall not be greater than the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas" for the most direct and usually traveled route from applicant's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement systems. If the mileage certified by the applicant is greater than the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas" the retirement systems shall pay the applicant the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas."]~~

~~[(4)] [Reimbursement for use of a privately owned vehicle shall be made at the IRS established standard mileage rate which changes periodically; and shall not exceed the cost of commercial coach fare.]~~

~~[(5)] [Actual costs for parking shall be reimbursed upon submission of receipts. The applicant shall submit the originals of the parking receipts along with a written request for reimbursement.]~~

~~[(6)] [Actual bridge and highway toll charges shall be reimbursed if the bridge or highway is on the most direct and usually traveled route. The applicant shall submit the originals of the bridge and highway toll receipts along with a written request for reimbursement.]~~

~~[(7)] [The applicant shall file at the retirement office a completed Form 8846, Independent Examination Travel Voucher, within fifteen (15) days of the date of the examination or evaluation in order to receive reimbursement for travel expenses.]~~

Section 12. [Section 5.] Benefit Payment Procedures for Duty-Related Disability.

(1) If the employee's application for duty-related ~~[injury]~~ disability benefits is approved, the employee's duty-related disability benefit shall be paid retroactive to the month following the month of the employee's last day of paid employment in a regular full-time position.

(2) If the employee did not receive early or normal retirement benefits or disability retirement benefits under KRS 61.600 and 78.5522, upon the employee's selection of a payment option, the Agency~~[retirement office]~~ shall pay the employee the total monthly retirement allowances owed.

(3)

(a) If the employee did receive early or normal retirement benefits or disability retirement benefits under KRS 61.600 and 78.5522, the Agency~~[retirement office]~~ shall calculate and pay to the employee the difference between the early or normal retirement benefit or disability retirement benefit which was paid to the employee and the duty-related disability benefit.

(b) The employee shall not change the beneficiary named or the~~[his]~~ payment option selected upon early, normal, or disability retirement except as provided in KRS

61.542(5)(a), 61.542(5)(b), and 78.545.

(4) If benefits are payable to a dependent child as defined in KRS 16.505, the dependent child or the child's parent or guardian shall file~~submit~~ the following documents at the retirement office:

(a) A ~~Form 6448~~^[56], "Designation of Dependent Child for Qualifying Total and Permanent Disability";

(b) If the child is age eighteen (18) or over and a full-time student, verification of full-time student status, if applicable;

(c) If the child is eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability, file a copy of the most recent statement issued by the Social Security Administration for such dependent children

~~(b) If the child is age eighteen (18) or over, verification of full-time student status;~~

~~(d) (e)~~ A copy of the birth certificate of each dependent child; and

~~(e) (d)~~ If a dependent child is a minor, a ~~Form 6110~~, "Affidavit of Authorization to Receive Funds on Behalf of Minor." ~~If the minor has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor," the guardian or conservator shall file~~submit~~ a copy of the court order appointing the guardian or conservator.~~

~~(5)~~

~~(a) (e)~~ The dependent child or the parent or guardian of the dependent child shall also:

1. Notify the Agency~~retirement system~~ of the death or marriage of a dependent child or if the dependent child ceases to be a full-time student, if applicable; and

2. File ~~Submit~~ a copy of the dependent child's verification of full-time student status with the Agency~~retirement system~~ for each semester of study within thirty (30) days following the start and within thirty (30) days following the end of each semester, if applicable.

(b) The dependent child or the parent or guardian of the dependent child shall be responsible for repaying any dependent child benefits overpaid due to the failure of the dependent child or parent or guardian of the dependent child to provide the information required by paragraph (a) of this subsection.

~~(6) (5)~~ Any increases provided ~~to recipients~~ under KRS 61.691 and 78.5518 shall be applied to the employee's duty-related disability benefit and payments to a dependent child in determining the total retroactive payments owed to the employee and dependent child.

~~(7)~~

~~(a) (6) If upon review in accordance with KRS 61.610 or other applicable statute, the board determines that an employee receiving duty-related injury disability benefits no longer meets eligibility requirements, then the board shall determine if the employee is eligible for disability benefits under KRS 61.600.~~

~~[Section 6.]~~

~~(1)~~ A recipient shall complete a Form 6130, "Authorization for Deposit of Retirement Payment," and file it at the retirement office, include direct deposit information on the Form 6000, "Notification of Retirement," or authorize direct deposit via Self-Service on the Web site maintained by the Agency to have the monthly retirement allowance deposited to an account in a financial institution.

(b) A dependent child or parent or guardian of a dependent child shall file a valid Form 6130, "Authorization for Deposit of Retirement Payment," at the retirement office in order to have the monthly benefit deposited to an account in a financial institution.

(c) ~~[(2)]~~ The recipient, dependent child, or parent or guardian of a dependent child and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution.

(8) ~~[(3)]~~

(a) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new valid~~[""]~~ Form 6130, "Authorization for Deposit of Retirement Payment,"~~[""]~~ and filing the form at the retirement office, or by changing their direct deposit information via Self-Service on the Web site maintained by the Agency~~[in Frankfort]~~.

(b) The latter of the designation on a valid Form 6000, "Notification of Retirement," the last valid Form 6130, "Authorization for Deposit of Retirement Payment," after the Form 6000 is on file at the retirement office, or the direct deposit information submitted via Self-Service on the Web site maintained by the Agency shall control the electronic transfer of the recipient's retirement allowance.

(c) At any time while receiving a monthly benefit, the dependent child or parent or guardian of a dependent child may change the designated institution by filing a new valid Form 6130, "Authorization for Deposit of Retirement Payment," at the retirement office or by submitting new direct deposit information via Self-Service on the Web site maintained by the Agency.

(d) The last valid Form 6130, "Authorization for Deposit of Retirement Payment," or the last direct deposit information submitted via Self-Service on the Web site maintained by the Agency shall control the electronic transfer of the dependent child's monthly benefit.

(9) ~~[(4)]~~ A ~~["The"]~~ recipient, dependent child, or parent or guardian of a dependent child may complete a valid~~[""]~~ Form 6135, "Request for Payment by Check," and file it at the retirement office if the recipient, dependent child, or parent or guardian of a dependent child does not currently have an account with a financial institution or the financial institution does not participate in the electronic funds transfer program.

(10) ~~[(5)]~~ The Agency~~[retirement office]~~ shall not process the retirement allowance or monthly benefit until the recipient, dependent child, or parent or guardian of a dependent child has filed a valid~~[completed]~~ Form 6130, "Authorization for Deposit of Retirement Payment," included direct deposit information on a valid "Form 6000, Notification of Retirement,"~~["-or-"]~~ filed a valid~~[completed]~~ Form 6135, "Request for Payment by Check," or authorized direct deposit via Self-Service on the Web site maintained by the Agency.

Section 13. Benefit Payment Procedures for Duty-Related Deaths.

(1) If the application for duty-related death benefits is approved, the duty-related death benefit shall be paid retroactive to the month following the month of the employee's date of death.

(2) If the surviving spouse did not receive survivor benefits under KRS 61.640 and 78.5532, upon the surviving spouse's selection of a payment option, the Agency shall pay the surviving spouse the total monthly retirement allowances owed.

(3)

(a) If the beneficiary was a surviving spouse who began receiving survivor benefits KRS 61.640 and 78.5532, the Agency shall calculate the difference between the survivor benefit paid to the surviving spouse beneficiary and the duty-related death benefit. The Agency shall pay the surviving spouse any additional funds due.

(b) If the surviving spouse was paid more than the amount due under KRS 61.621 or KRS 78.545, the Agency shall deduct the difference from the \$10,000 lump sum

payment and from the monthly retirement allowance payments until the amount owed to the Agency has been recovered.

(4) If benefits are payable to a dependent child as defined in KRS 16.505, the dependent child or the child's parent or guardian shall file the following documents at the retirement office:

- (a) A Form 6458, "Designation of Dependent Child for In Line of Duty/Duty-Related;
- (b) If the child is age eighteen (18) or over and a full-time student, verification of full-time student status, if applicable;
- (c) If the child is eligible for federal Social Security disability benefits or is being claimed as a qualifying child for tax purposes due to the child's total and permanent disability, file a copy of the most recent statement issued by the Social Security Administration for such dependent children;
- (d) A copy of the birth certificate of each dependent child; and
- (e) If a dependent child is a minor, a Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor." If the minor has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor," the guardian or conservator shall file a copy of the court order appointing the guardian or conservator.

(5)

- (a) The dependent child or the parent or guardian of the dependent child shall also:
 - 1. Notify the Agency of the death or marriage of a dependent child or if the dependent child ceases to be a full-time student, if applicable; and
 - 2. File a copy of the dependent child's verification of full-time student status with the Agency for each semester of study within thirty (30) days following the start and within thirty (30) days following the end of each semester, if applicable.
- (b) The dependent child or the parent or guardian of the dependent child shall be responsible for repaying any dependent child benefits overpaid due to the failure of the dependent child or parent or guardian of the dependent child to provide the information required by paragraph (a) of this subsection.

(6) Any increases provided under KRS 61.691 and 78.5518 shall be applied to the surviving spouse's duty-related death benefit and payments to a dependent child in determining the total retroactive payments owed to the surviving spouse and dependent child.

(7)

- (a) A surviving spouse, dependent child, or parent or guardian of a dependent child shall complete a Form 6130, "Authorization for Deposit of Retirement Payment," and file it at the retirement office in order to have the monthly benefit deposited to an account in a financial institution.
- (b) The surviving spouse, dependent child, or parent or guardian of a dependent child and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution.

(8)

- (a) At any time while receiving a monthly benefit, the surviving spouse, dependent child, or parent or guardian of a dependent child may change the designated institution by filing a new valid Form 6130, "Authorization for Deposit of Retirement Payment," at the retirement office or by submitting new direct deposit information via Self-Service on the Web site maintained by the Agency, if available.
- (b) The last valid Form 6130, "Authorization for Deposit of Retirement Payment," or the last direct deposit information submitted via Self-Service on the Web Site maintained by the Agency shall control the electronic transfer of the surviving spouse's or dependent child's monthly benefit.

(9) A surviving spouse, dependent child, or parent or guardian of a dependent child may file a valid Form 6135, "Request for Payment by Check," at the retirement office if the surviving spouse, dependent child, or parent or guardian of a dependent child does not currently have an account with a financial institution or the financial institution does not participate in the electronic funds transfer program.

(10) The Agency shall not process the retirement allowance or monthly benefit until the surviving spouse, dependent child, or parent or guardian of a dependent child has filed a valid Form 6130, "Authorization for Deposit of Retirement Payment," filed a valid Form 6135, "Request for Payment by Check," or authorized direct deposit via Self-Service on the website maintained by the Agency.

Section 14. One-Time Window for Surviving Spouse to Apply for Duty-Related Death Benefits. A surviving spouse of an employee who died prior to retirement and prior to April 13, 2018 who is currently receiving monthly benefits from the Agency and who did not seek benefits for an employee's death resulting from a duty-related injury pursuant to KRS 61.621 and 78.545 may apply for duty-related death benefits so long as the application for duty-related death benefits is on file at the retirement office on or before January 1, 2021.

Section 15. Death During Duty-Related Disability Benefits Application Process.

(1)

(a) If an applicant has a valid Form 6000, "Notification of Retirement," for duty-related disability benefits on file at the retirement office that complies with Sections 4 and 6, is not receiving monthly early, normal, or disability retirement benefits, and dies prior to being approved for duty-related disability benefits by at least a majority of the medical examiners or by a Final Order of DAC, then the beneficiary named on the Form 6000 shall file the following at the retirement office in accordance with any applicable deadlines in KRS 61.665 and 78.545 in order to continue with the applicant's application or reapplication for duty-related disability benefits:

1. A Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member,"
2. Any outstanding forms required by Section 4 that have not yet been filed by the applicant, and
3. Any additional relevant objective medical evidence and a valid Form 8002, "Beneficiary Certification of Application for Disability Retirement and Supporting Medical Information."

(b) If there are no applicable deadlines pursuant to KRS 61.665 and 78.545, then the beneficiary named on the Form 6000, "Notification of Retirement," as described in paragraph (a) of this subsection shall file at the retirement office a Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member," within sixty (60) days of the date of the applicant's death.

(c) A beneficiary as described in paragraphs (a) or (b) of this subsection that does not want to continue with the applicant's application or reapplication may file at the retirement office a Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member."

(d) If the beneficiary named on the Form 6000, "Notification of Retirement," as described in paragraphs (a) or (b) of this subsection does not timely file the required documentation, then the Form 6000 shall be invalid and the duty-related disability application or reapplication shall not be processed by the Agency.

(2)

(a) If an applicant has a valid Form 6000, "Notification of Retirement," for duty-related disability benefits that complies with Sections 4 and 6 on file at the retirement office, is receiving monthly early, normal, or disability retirement benefits, and dies prior to being approved for duty-related disability benefits by at least a majority of the medical

examiners or by a Final Order of DAC, and no monthly or lump-sum benefits are payable to the beneficiary listed on the Form 6000, then the executor, administrator, or other representative of the applicant's estate shall file the following at the retirement office in accordance with any applicable deadlines in KRS 61.665 and 78.545 in order to continue with the applicant's application or reapplication for duty-related disability benefits:

1. An order appointing the executor, administrator, or other representative of the applicant's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court,
2. A written statement that the application or reapplication for duty-related disability benefits should continue,
3. Any outstanding forms required by Section 4 that have not yet been filed by the applicant, and
4. Any additional relevant objective medical evidence and a valid Form 8002, "Beneficiary Certification of Application for Disability Retirement and Supporting Medical Information."

(b) If none of the deadlines in KRS 61.665 and 78.545 apply, within sixty (60) days of their appointment, the executor, administrator, or other representative of the applicant's estate as described in paragraph (a) of this subsection shall file the following at the retirement office in order to continue with the applicant's application or reapplication for duty-related disability benefits:

1. A copy of the order appointing the executor, administrator, or other representative of the applicant's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court, and
2. A written statement that the application or reapplication for duty-related disability benefits should continue.

(c) An executor, administrator, or other representative of the applicant's estate as described in paragraphs (a) or (b) of this subsection that does not want to continue with the applicant's application or reapplication may file the following at the retirement office:

1. A copy of the order appointing the executor, administrator, or other representative of the applicant's estate from a court with jurisdiction that has been entered by the Clerk of the Court or certified by the Clerk of the Court, and
2. A written statement that the application or reapplication for duty-related disability benefits is withdrawn.

(d) If the executor, administrator, or other representative of the applicant's estate as described in paragraphs (a) or (b) of this subsection does not timely file the required documentation, then the application or reapplication for duty-related disability benefits shall be invalid and shall not be processed by the Agency.

(3)

(a) If an applicant has a valid Form 6000, "Notification of Retirement," for duty-related disability benefits that complies with Sections 4 and 6 on file at the retirement office, is receiving monthly early, normal, or disability retirement benefits, and dies prior to being approved for duty-related disability benefits by at least a majority of the medical examiners or by a Final Order of DAC, and lump sum or monthly benefits are payable to the beneficiary listed on the Form 6000, then the beneficiary named on the Form 6000 shall file the following at the retirement office in accordance with any applicable deadlines in KRS 61.665 and 78.545 in order to continue with the applicant's application or reapplication for duty-related disability benefits:

1. A Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member,"

2. Any outstanding forms required by Section 4 that have not yet been filed by the applicant, and

3. Any additional relevant objective medical evidence and a valid Form 8002, "Beneficiary Certification of Application for Disability Retirement and Supporting Medical Information."

(b) If there are no applicable deadlines pursuant to KRS 61.665 and 78.545, then the beneficiary named on the Form 6000, "Notification of Retirement," as described in paragraph (a) of this subsection shall file at the retirement office a Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member," within sixty (60) days of the date of the applicant's death.

(c) A beneficiary as described in paragraphs (a) or (b) of this subsection that does not want to continue with the applicant's application or reapplication may file at the retirement office a Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member."

(d) If the beneficiary named on the Form 6000, "Notification of Retirement," as described in paragraphs (a) or (b) of this subsection does not timely file the required documentation, then the duty-related disability application or reapplication shall be invalid and shall not be processed by the Agency.

Section 16. ~~[Section 7.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6800, "Application for Death Benefits Duty Related/In Line of Duty," ~~[,] April 2021~~ ~~[April 2003]~~;

(b) Form 6000, "Notification of Retirement," ~~[,] April 2021~~ ~~[July 2004]~~;

(c) Form 8035, "Employee Job Description," April 2021;

(d) Form 8040, "Prescription and Nonprescription Medications," April 2021;

(e) Form 8001, "Certification of Application for Disability Retirement and Supporting Medical Information," April 2021;

(f) Form 8030, "Employer Job Description," April 2021;

(g) Form 8846, "Travel Voucher for Independent Examination," May 2008;

(h) Form 6448, "Designation of a Dependent Child for Qualifying Total and Permanent Disability," June 2021;

(i) ~~[(e)]~~ Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor," ~~[,] April 2021~~ ~~[May 2003]~~;

(j) ~~[(d)]~~ ~~[Form 6456, "Designation of Dependent Child", July 2004;]~~

~~[(e)]~~ Form 6130, "Authorization for Deposit of Retirement Payment," April 2021 ~~[May 2008]~~; ~~[and]~~

(k) ~~[(f)]~~ Form 6135, "Request for Payment by Check," ~~[,] May 2015~~; ~~[February 2002.]~~

(l) Form 6458, "Designation of Dependent Child for In Line of Duty/Duty-Related," April 2021;

(m) Form 6008, "Beneficiary Election to Continue Disability Application Process on Behalf of Deceased Member," April 2021; and

(n) Form 8002, "Certification of Application for Disability Retirement and Supporting Medical Information," April 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, ~~[Retirement Systems]~~, ~~[Perimeter Park West,]~~ 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

DAVID L. EAGER, Executive Director

APPROVED BY AGENCY: July 29, 2021

FILED WITH LRC: July 29, 2021 at 11:17 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, October 21, 2021 at 2:00 p.m. Eastern Standard Time at the Kentucky Public Pensions Authority, 1270 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given the opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Board, Executive Director Office of Legal Services, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 8647, fax (502) 696-8801, email Legal.Non-Advocacy@kyret.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Board

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the procedures and requirements for applying or reapplying for duty-related disability and death benefits and for administratively appealing a denial of an application or reapplication for duty-related benefits.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the procedures and requirements for applying or reapplying for duty-related disability and death benefits and for administratively appealing a denial of an application or reapplication for duty-related benefits.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the authorizing statute by establishing the procedures and requirements for applying or reapplying for duty-related disability and death benefits and for administratively appealing a denial of an application or reapplication for duty-related benefits in accordance with KRS 61.621 and 78.545.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation will assist in the effective administration of the statutes by establishing the procedures and requirements for applying or reapplying for duty-related disability and death benefits and for administratively appealing a denial of an application or reapplication for duty-related benefits in accordance with KRS 61.621 and 78.545.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendment updates the regulation to reflect the changes enacted by the General Assembly in House Bill 484 (2020) and House Bill 9 (2021) as well as the Kentucky Public Pensions Authority's use of a third-party vendor to provide medical examiner reviews in accordance with KRS 61.665 and 78.545. The amendment also clarifies the existing regulation.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to update the regulation to reflect the changes enacted by the General Assembly in House Bill 484 (2020) and House Bill 9 (2021) as well as the Kentucky Public Pensions Authority's use of a third-party vendor to provide medical examiner reviews in accordance with KRS 61.665 and 78.545. The amendment also clarifies the existing regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment conforms to the authorizing statute because it is necessary to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, in accordance with KRS 61.505(1)(f).

(d) How the amendment will assist in the effective administration of the statutes:

The amendment will assist in the effective administration of the statutes by establishing the procedures and requirements for applying or reapplying for duty-related disability and death benefits and for administratively appealing a denial of an application or reapplication for duty-related benefits in accordance with KRS 61.621 and 78.545.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System, and the members of the Kentucky Retirement Systems and the County Employees Retirement System. Number of individuals is unknown. Number of businesses, organizations, or state and local governments affected is three (3): the Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

This amendment should not substantially alter the actions that the Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System will have to take to comply with this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

This regulation should not cost any additional funds.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The amendment allows the Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System to conform with KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, particularly the duty-related disability and death benefit application and reapplication process as well as the process for administratively appealing the denial of duty-related disability applications and reapplications. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The costs associated with the implementation of this administrative regulation should be negligible.

(b) On a continuing basis:

The costs associated with the implementation of this administrative regulation should be negligible.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Administrative expenses of the Kentucky Public Pensions Authority are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an

amendment:

There is no increase in fees or funding required. (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

No answer provided.

(9) TIERING: Is tiering applied?

Tiering is not applied. All members are subject to the same processes and procedures.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

No answer provided.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 61.505(1)(f).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

None.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

None.

(c) How much will it cost to administer this program for the first year?

The cost to Kentucky Public Pensions Authority should be negligible.

(d) How much will it cost to administer this program for subsequent years?

The cost to Kentucky Public Pensions Authority should be negligible.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: