

**THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979 (EXCERPT)**  
**Act 300 of 1980**

**38.1388 Duty or nonduty disability retirant; medical examination; affidavit; deception; discontinuance or revocation of nonduty disability retirement allowance; return to membership; restoration of credited service; restoration of duty disability retirant to active service; cessation of allowance or rights to allowance; lump sum payment; payment on retirant's sixtieth birthday; reduction of retirement allowance; computation of allowable earnings; applicability of subsection (4).**

Sec. 88.

(1) The retirement board may require a duty or nonduty disability retirant to submit to a medical examination by a practicing physician or a medical officer designated by the retirement board as necessary for proof of eligibility for continuance of the disability allowance. The retirement board may require each disability retirant who is 59 years of age or less to submit a sworn affidavit during January of each year, in the form and manner prescribed by the retirement board, attesting that the retirant believes himself or herself to be totally and permanently disabled for the same reason for which the disability allowance was granted, and disclosing any significant change in physical or mental condition that occurred during the preceding 12-month period because of medical treatment. A retirant who submits information with intent to deceive may have the disability retirement allowance revoked by the retirement board.

(2) The retirement board may discontinue a nonduty disability retirement allowance if medical examination reports indicate that the retirant no longer is disabled. If a nonduty disability retirant refuses to submit to an examination, the retirant's disability retirement allowance may be discontinued until withdrawal of the refusal. If a refusal continues for 12 months, the retirant's rights to a nonduty disability retirement allowance shall be revoked by the retirement board. However, upon the retirant's sixtieth birthday the retirant shall be paid a retirement allowance based on the final average compensation, service, and benefit formula as of the effective date of the retirant's nonduty disability retirement allowance if the retirant's contributions are left on deposit. If the nonduty disability retirant returns to membership service after termination of a disability allowance, the retirant shall again become a member of the retirement system. The retirant's credited service in effect at the time of disability retirement shall be restored.

(3) If, upon examination of a duty disability retirant, the medical report indicates that the retirant no longer is disabled and is capable of resuming public school employment, the retirant shall be restored to active service with the reporting unit from which the person terminated employment and the duty disability retirement allowance shall cease. Payment of the duty disability retirement allowance shall continue until the retirant is actually returned to reporting unit service in a position for which the retirant is qualified by reason of training, or experience, or both. The retirant again shall become a member of the retirement system and the retirant's credited service in effect at the time of duty disability retirement shall be restored. If the retirant refuses to either submit to a medical examination or to return to reporting unit service and if either refusal continues for 12 months, the retirant's rights to a duty disability retirement shall cease. A lump sum payment shall be made of the difference between the retirant's accumulated contributions at time of retirement and the aggregate amount of the retirant's disability retirement allowance payments, unless the retirant has acquired 10 or more years of credited service before the time of his or her duty disability allowance. In that event, upon the retirant's sixtieth birthday, the retirant shall be paid a retirement allowance based upon the final average compensation, service, and benefit formula as of the effective date of the duty disability retirement allowance, if the retirant's contributions as a member are left on deposit.

(4) If a disability retirant becomes engaged in gainful employment, and if the total of the retirant's income from the employment and retirement allowance exceeds the retirant's final average compensation, the retirement allowance shall be reduced to an amount which when added to the amount earned by the retirant equals the retirant's final average compensation. For purposes of computing allowable earnings under this subsection, the final average compensation shall be increased by 2% for each 12 months elapsed after the date the retirement allowance commenced. This subsection shall not apply on or after the date the duty or nonduty disability retirant otherwise would have been eligible for an age and service retirement allowance if the retirant had not become disabled, but the retirant shall be subject to section 61.

**History:** 1980, Act 300, Imd. Eff. Oct. 31, 1980

**Popular Name:** Act 300