

TITLE 2 PUBLIC FINANCE
CHAPTER 82 EDUCATIONAL RETIREMENT
PART 7 ANNUITANTS AND DISABILITY RECIPIENTS

2.82.7.1 ISSUING AGENCY: Educational Retirement Board, P. O. Box 26129, Santa Fe, New Mexico 87502-0129.
[2.82.7.1 NMAC - Rp, 2 NMAC 82.7.1, 6/16/2015]

2.82.7.2 SCOPE: This rule applies to members receiving disability benefits.
[2.82.7.2 NMAC - Rp, 2 NMAC 82.7.2, 6/16/2015]

2.82.7.3 STATUTORY AUTHORITY: The Educational Retirement Act, Sections 22-11-1 to 22-11-55 NMSA 1978.
[2.82.7.3 NMAC - Rp, 2 NMAC 82.7.3, 6/16/2015; A, 10/17/2017]

2.82.7.4 DURATION: Permanent.
[2.82.7.4 NMAC - Rp, 2 NMAC 82.7.4, 6/16/2015]

2.82.7.5 EFFECTIVE DATE: June 16, 2015, unless a later date is cited at the end of a section.
[2.82.7.5 NMAC - Rp, 2 NMAC 82.7.5, 6/16/2015]

2.82.7.6 OBJECTIVE: Clarifies requirements for disability retirement.
[2.82.7.6 NMAC - Rp, 2 NMAC 82.7.6, 6/16/2015]

2.82.7.7 DEFINITIONS: [RESERVED]

2.82.7.8 BENEFIT PAYMENTS:

A. After the initial payment of benefits, payments shall be processed or mailed monthly, not later than the last day of the month for which they are paid.

B. At the time of death, a retired member's benefit shall be paid in accordance with the option selected, or if none was selected, the member's beneficiary who shall have been named at the time of retirement, shall receive the benefit for the month of the member's death or the excess of total contributions over total benefits received by the member, whichever is greater.

C. Upon the death of a member who is receiving disability benefits and who has rejected the coverage of option B, the member's surviving beneficiary shall receive the benefit due the member from the first day of the month of death to the date of death, inclusive, or the excess of total contributions over total benefits received by the member, whichever is greater.

(1) A member eligible to receive disability benefits, shall receive unmodified benefits as set forth in Section 22-11-37 NMSA 1978, until the member attains age 60, at which time the benefit will be modified in accordance with option selected at that time, if any, and the modifications will be based upon the then attained ages of the member and beneficiary.

(2) Upon the death prior to age 60 of a member receiving disability benefits who has option B coverage, the beneficiary of such member shall be entitled to the benefits provided by Subsection D of Section 22-11-29 NMSA 1978.

[2.82.7.8 NMAC - Rp, 2 NMAC 82.7.8, 6/16/2015; A, 10/17/2017]

2.82.7.9 EMPLOYMENT:

A. Once each calendar quarter, administrative units shall be required to report to the educational retirement board "the full-time equivalency" of members retired for age or service and members receiving disability benefits.

B. A member receiving disability benefits may engage in employment in the same manner and such employment shall be considered as partial evidence of ability to return to regular employment, and this, together with medical evidence, may be considered by the board in determining whether the member's disability benefit should continue.

C. Members retired for age or service may reside anywhere they choose, and engage in any employment which is not covered by the Educational Retirement Act, without affect to their retirement status.

D. If a member who returns to employment and is removed from a retirement status wishes to retire again, the member may do so in accordance with Section 22-11-25 NMSA 1978 and Subsection D of 2.82.5.9 NMAC.

E. Retired members who perform services for local administrative units as an independent contractor must meet the criteria set forth for an independent contractor in Subsection C of 2.82.2.11 NMAC. [2.82.7.9 NMAC - Rp, 2 NMAC 82.7.9, 6/16/2015; A, 10/17/2017; A, 7/14/2020]

HISTORY OF 2.82.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

ERB 67-3, Rules and Procedures, filed 6/30/1967;

ERB 78-1, Rules and Procedures, filed 8/7/1978;

ERB Rule VII, Annuitants and Disability Recipients, filed 7/2/1982.

History of Repealed Material:

2 NMAC 82.7, Annuitants and Disability Recipients - Repealed 6/16/2015.