

**Effective 5/14/2019**

**Superseded 7/1/2022**

**49-16-102 Definitions.**

As used in this chapter:

- (1)
  - (a) "Compensation" means the total amount of payments that are includable as gross income which are received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.
  - (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.
  - (c) "Compensation" does not include:
    - (i) overtime;
    - (ii) sick pay incentives;
    - (iii) retirement pay incentives;
    - (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;
    - (v) a lump-sum payment or special payments covering accumulated leave; and
    - (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.
  - (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.
- (2)
  - (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.
  - (b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).
- (3) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(a), (b), and (c).
  - (a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.
  - (b) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:
    - (i) the member has transferred from another agency; or
    - (ii) the member has been promoted to a new position.
  - (c) The annual compensation used to calculate final average salary shall be based on:
    - (i) a calendar year for a member employed by a participating employer that is not an educational institution; or
    - (ii) a contract year for a member employed by an educational institution.
- (4)
  - (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

- (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or
- (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.
- (b) "Firefighter service" does not include secretarial staff or other similar employees.
- (5) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. An employee of a regularly constituted fire department who does not perform firefighter service is not a firefighter service employee.
- (6)
  - (a) "Line-of-duty death or disability" means a death or disability resulting from:
    - (i) external force, violence, or disease directly resulting from firefighter service; or
    - (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.
  - (b) "Line-of-duty death or disability" does not include a death or disability that:
    - (i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;
    - (ii) occurs during the commission of a crime committed by the employee;
    - (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or
    - (iv) occurs in a manner other than as described in Subsection (6)(a).
  - (c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.
- (7) "Objective medical impairment" means an impairment resulting from an injury or illness which is diagnosed by a physician or physician assistant and which is based on accepted objective medical tests or findings rather than subjective complaints.
- (8) "Participating employer" means an employer which meets the participation requirements of Section 49-16-201.
- (9) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.
- (10)
  - (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.
  - (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.
- (11) "System" means the Firefighters' Retirement System created under this chapter.
- (12)
  - (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter service employee, but who:
    - (i) has been trained in firefighter techniques and skills;
    - (ii) continues to receive regular firefighter training; and
    - (iii) is on the rolls of a legally organized volunteer fire department which provides ongoing training and serves a political subdivision of the state.
  - (b) An individual that volunteers assistance but does not meet the requirements of Subsection (12)(a) is not a volunteer firefighter for purposes of this chapter.

(13) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.