

Amendment and Compilation of Chapter 6-26  
Hawaii Administrative Rules

1. Chapter 6-26, Hawaii Administrative Rules, entitled "Application for Retirement Benefits; Proof of Age and Computation of Age", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

EMPLOYEES' RETIREMENT SYSTEM

CHAPTER 26

APPLICATION FOR RETIREMENT BENEFITS; PROOF OF AGE AND  
COMPUTATION OF AGE

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### SUBCHAPTER 1

#### APPLICATION FOR RETIREMENT BENEFITS

**§6-26-1 Application for retirement; person filing; when filed.** (a) An application for service retirement shall be filed by the member.

(b) An application for ordinary disability retirement or service-connected disability retirement shall be filed by the member.

(c) Any application that a member may file may be filed by the member's duly authorized, court-appointment guardian or legal representative, in the

event the member has been found to be incapacitated as provided in chapter 560, article V, HRS.

(d) For the purpose of this chapter, an application is filed when it is received by the system at its offices in Honolulu, Kauai, Maui, or Hawaii. [Eff 2/9/89; am and comp 11/26/09; comp ] (Auth: HRS §§88-28) (Imp: HRS §§88-70, 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334, 88-336)

**§6-26-2 Effective date of retirement.** The effective date of retirement shall be as follows:

- (1) Service retirement: the date specified in the written application, which date shall not be less than thirty days nor more than one hundred fifty days subsequent to the date of filing. Retirement shall be effective on the first day of the month, except for the month of December when retirement on the first or last day of the month shall be allowed.
- (2) Ordinary disability retirement: no earlier than thirty days from the date the application was filed or the date the member terminated service, whichever is later. A member whose application is approved by the board while the member is still in service may terminate service and retire at any time following the approval; provided that retirement shall become effective on the first day of the month following the month the member terminates employment or goes off the payroll, except for the month of December when retirement on the first or last day of the month shall be allowed.
- (3) Service-connected disability retirement: the date the application is filed with the system, if the applicant is off the payroll as of that date. If an applicant who files an application for service-connected

disability retirement continues to work at the applicant's regular job, or remains on the payroll by taking paid sick or vacation leave of absence, the effective date of retirement shall be the date the applicant terminates employment or goes off the payroll. [Eff 2/9/89; am and comp 11/26/09; comp ] (Auth: HRS §88-28) (Imp: HRS §§88-73, 88-75, 88-79, 88-83, 88-281, 88-283, 88-284, 88-286, 88-331, 88-333, 88-334, 88-336)

**§6-26-3 Contents of application.** (a) All applications for retirement benefits shall contain the following information:

- (1) The member's name, mailing address, and social security number;
- (2) The date of the application;
- (3) The member's date of birth;
- (4) The name of the employing department;
- (5) The position or job title held by the member;
- (6) The retirement allowance option that the member elects under any of the plans for receiving retirement allowances described in sections 88-74, 88-83, 88-282, 88-283, 88-332, and 88-333, HRS;
- (7) The name, relationship, social security number, and date of birth of any beneficiary designated to receive the benefit payable upon the death of the member after retirement;
- (8) The duly notarized signature of the member is required unless:
  - (A) The member executes the application in the presence of a staff member who is authorized by the ~~administrator~~ executive director of the system to accept applications; or

(B) The application is for ordinary or service-connected disability retirement and is filed by the member's duly authorized and appointed guardian or legal representative, as provided in section 6-26-1(b).

(b) If the application is for disability retirement, the application shall contain the following additional information:

- (1) Whether the application is for ordinary or service-connected retirement.
- (2) If the application is for service-connected disability retirement, a brief statement of the accident causing the disability, including the date, time, place, and circumstances of the accident, or a brief statement of the occupational hazard causing the disability.
- (c) If the application is for service retirement, the application shall also contain the effective date of retirement. [Eff 2/9/89; am 1/29/90; am and comp 11/26/09; am and comp ] (Auth: HRS §88-28)  
(Imp: HRS §§88-73, 88-75, 88-79, 88-83, 88-281, 88-283, 88-284, 88-286, 88-331, 88-333, 88-334, 88-336)

**§6-26-4 Simultaneous filing of more than one application.** A member may file applications for different types of retirement at the same time, subject to the following limitations:

- (1) The effective date for retirement shall be in accordance with rules governing the effective date for each retirement;
- (2) The retirement allowance option and beneficiary shall be the same for all applications; and
- (3) The election of retirement allowance option shall be irrevocable, notwithstanding the subsequent approval of an application for ordinary disability retirement. [Eff 2/9/89;

am and comp 11/26/09; comp ]  
(Auth: HRS §88-28) (Imp: HRS §§88-73, 88-  
75, 88-79, 88-83, 88-281, 88-283, 88-284,  
88-286, 88-331, 88-333, 88-334, 88-336)

**§6-26-5 Election of retirement allowance option; change; irrevocability.** (a) A member may elect only one retirement allowance option. The retirement allowance option elected by the member may be changed to filing with the system's offices in Honolulu, Kauai, Maui, or Hawaii, written notice of change no later than one business day before the effective date of retirement. Any written notice of change sent by mail shall not be effective unless it is received by the system no later than one business day before the effective date of retirement.

(b) Every written notice of change shall contain the duly notarized signature of the member, or the member may execute the change in the presence of a staff member who is authorized by the administrator of the system to accept changes. If a member does not select a retirement allowance option before the member's effective date of retirement, then the default retirement allowance option shall be the maximum allowance option, and the beneficiary shall be the member's estate, if no beneficiary has been designated on the application. Upon the effective date of retirement, the retirement allowance option is irrevocable and cannot be changed. [Eff 2/9/89; am and comp 11/26/09; comp ] (Auth: HRS §88-28) (Imp: HRS §§88-83, 88-283, 88-333)

**§6-26-5.01 Spousal or reciprocal beneficiary notification.** (a) No election by a member of any retirement allowance option in accordance with section 88-83, 88-283, or 88-333, HRS, shall take effect:

- (1) Until the system provides the spouse or reciprocal beneficiary of the member written notification that:
    - (A) Specifies the retirement date, the retirement allowance option selected, and the beneficiary designated by the member; and
    - (B) Provides information indicating the effect of the election;
  - (2) Unless the member selects option 2, option 3, including an option that includes options 2 or 3 in combination with some other form of benefit payment, option A or option B and designates the spouse or reciprocal beneficiary as the beneficiary; or
  - (3) Unless it is established to the satisfaction of the board that the notice required under paragraph (1) cannot be provided because:
    - (A) There is no spouse or reciprocal beneficiary;
    - (B) The spouse or reciprocal beneficiary cannot be located; or
    - (C) The member has failed to notify the system that the member has a spouse or reciprocal beneficiary or has failed to provide the system with the name and address of the member's spouse or reciprocal beneficiary.
- (b) The notice shall be in writing and provided in one of the following ways:
- (1) Via hand-delivery; or
  - (2) By mail.
  - (c) Any notice provided to a spouse or reciprocal beneficiary, or determination that the notification of a spouse or reciprocal beneficiary cannot be provided, shall be effective only with respect to that spouse or reciprocal beneficiary. The system shall rely on the representations made by a member as to whether the member has a spouse or reciprocal beneficiary and the name and address of the member's spouse or reciprocal beneficiary. The member shall provide the representations to the system on a

form prescribed by the system. [Eff and comp 11/26/09; comp ] (Auth: HRS §§88-28, 88-83, 88-283, 88-333) (Imp: HRS §§88-83, 88-283, 88-333)

**§6-26-6 Designated beneficiary; when more than one.** If more than one beneficiary is designated to receive benefits payable upon death, the applicant shall indicate the portion of the benefits payable to each beneficiary and to whom benefits will be paid if the beneficiary predeceases the applicant. [Eff 2/9/89; am and comp 11/26/09; comp ] (Auth: HRS §88-28) (Imp: HRS §§88-83, 88-283, 88-333)

**§6-26-7 Disability application; medical evidence.** (a) The applicant for ordinary and service-connected disability retirement shall have the responsibility of furnishing all medical evidence available or which can be made available to the applicant pertaining to the applicant's disability, including reports of the applicant's personal physician and consultant physicians, hospital and laboratory reports, and x-rays.

The applicant for service-connected disability retirement shall also submit, on a form provided by the system, information concerning the applicant's education, work experience, and medical history.

(b) If the application is for service-connected disability retirement, the system shall obtain the following:

- (1) A copy of the employer's report of the accident submitted by the employer to the department of labor and industrial relations, disability compensation division, and any other report of or to the disability compensation division, including medical reports, relating to the accident;

- (2) A certified statement from the head of the department in which the applicant is employed, stating the date, time, and place of the accident, and the nature of the service being performed when the accident occurred. The statement shall also include an opinion as to whether or not the accident resulted in the applicant's disability and whether or not the disability was the result of willful negligence on the applicant's part;
  - (3) A copy of the latest position description of the applicant's duties and responsibilities; and
  - (4) A release form signed by the applicant which enables the system to obtain any medical and worker's compensation reports.
- (c) The application shall be deemed canceled if:
- (1) The applicant for ordinary or service-connected disability retirement fails to file a report from the applicant's personal physician concerning the applicant's medical condition and disability within sixty days from the date of the filing of the application; or
  - (2) Twice fails to keep an appointment with the medical board or with a consultant to whom the applicant may be referred by the medical board or by the system.

Written notice of the cancellation shall be sent to the applicant.

(d) For the purpose of this subchapter, unless otherwise indicated by the context, the term "service-connected disability retirement" includes service-connected total disability retirement and service-connected occupational disability retirement. [Eff 2/9/89; am and comp 11/26/09; comp ]  
(Auth: HRS §88-28) (Imp: HRS §§88-75, 88-79, 88-284)

**§6-26-8 Application for three-year evaluation; calculation of benefits; cancellation of request for**

**evaluation.** (a) A member who has been retired on service-connected occupational disability retirement for accidents occurring before July 7, 1998 shall be notified in writing at least ninety days before the expiration of three years from the effective date of retirement that the member is entitled to be evaluated by the medical board to determine whether the member has become totally incapacitated for gainful employment as a result of the member's service-connected injuries or job hazard. The member shall notify the system whether the member desires to be evaluated by submitting a written request for evaluation. The written request for evaluation shall be submitted no earlier than the date of the notice from the system that the member is entitled to be evaluated by the medical board and no later than the expiration of three years from the effective date of retirement. The member shall submit new medical evidence in support of the member's claim of total disability.

- (1) After review by the medical board, if the board determines that the member is totally incapacitated for gainful employment as a result of the member's service-connected injuries or job hazard, the board shall award the member a service-connected disability benefit consisting of an annuity plus a pension of sixty-six and two-thirds per cent of the member's average final compensation;
- (2) After review by the medical board, if the board determines that the member is not totally incapacitated for gainful employment as a result of the member's service-connected injuries or job hazard, the member's benefit after the completion of three years from the date of retirement shall be the member's annuity plus a pension of thirty-three and one-third per cent of the member's average final compensation.

(b) The right to a three-year evaluation shall be deemed waived and the request for an evaluation

canceled if the applicant twice fails to keep an appointment with the medical board or with a consultant to whom the applicant may be referred by the medical board or the system for medical evaluation. Written notice of the cancellation shall be sent to the applicant. [Eff 2/9/89; am and comp 11/26/09; comp ] (Auth: HRS §88-28) (Imp: HRS §§88-77 (1997), 88-79 (1997), 88-80 (1997))

## SUBCHAPTER 2

### PROOF OF AGE

**§6-26-9 Purpose and scope.** The purpose of this subchapter is to implement section 88-44, HRS, which provides that a member shall present at that time and in the manner as the board prescribes, evidence of the member's date of birth. This subchapter shall also apply to evidence of the date of birth of a member's beneficiary when the age of the beneficiary is a factor in the computation of any benefit or allowance payable to the member in the beneficiary under any of the retirement options described in sections 88-74, 88-83, 88-282, 88-283, 88-332, and 88-333, HRS. [Eff 2/9/89; am and comp 11/26/09; comp ] (Auth: HRS §§88-28, 88-44) (Imp: HRS §§88-44, 88-73, 88-74, 88-83, 88-282, 88-283, 88-331, 88-332, 88-333)

**§6-26-10 When submitted.** (a) A member shall submit evidence establishing the member's date of birth upon filing an application for retirement. At the request of the system, a member shall also present evidence of the date of birth of the member's beneficiary, whenever the age of the beneficiary is of significance, in computing the allowance or benefit

payable to the member and to the beneficiary. At the request of the system, a beneficiary shall present evidence of the beneficiary's date of birth whenever the age of the beneficiary is of significance in computing any benefit to the beneficiary.

(b) Evidence of the member's date of birth may be submitted prior to the filing of any application for retirement. If such evidence is accepted by the system as establishing the date of birth, it need not be presented again when the application for retirement is filed.

(c) No retirement allowance or benefit shall be paid until evidence which satisfactorily establishes date of birth is submitted to the system. [Eff 2/9/89; comp 11/26/09; comp \_\_\_\_\_] (Auth: HRS §§88-28, 88-44) (Imp: HRS §§88-44, 88-73, 88-74, 88-83, 88-282, 88-283, 88-331, 88-332, 88-333)

**§6-26-11 Original documents of record; copies.**

All documents or records presented as evidence of date of birth shall be originals [~~or~~], copies certified by the custodian of the record [~~Extracts from records shall also be certified by the custodian of the record.~~], or duplicates thereof, noted in section 6-26-12. If duplicates are submitted, the system may at its discretion, require that originals or copies certified by the custodian of record be presented or made available for inspection.

All original documents except documents addressed to the system shall be returned after the system has made copies thereof. [Eff 2/9/89; comp 11/26/09; am and comp \_\_\_\_\_] (Auth: HRS §§88-28, 88-44) (Imp: HRS §§88-44, 88-73, 88-74, 88-83, 88-282, 88-283, 88-332, 88-332, 88-333)

**§6-26-12 Types of evidence.** (a) The member shall submit one of the following as evidence of date of birth:

- (1) A certified birth certificate;
- (2) An [~~original~~] baptismal certificate which shows the date of birth and was recorded before age five; or
- (3) A written statement from the Social Security Administration establishing the member's date of birth; or
- (4) Valid "Real ID" credentials (e.g., driver's licenses with "Gold Star" emblems or equivalent state identification certificates).

(b) If the evidence in subsection (a) cannot be obtained, the member shall submit at least two of the following:

- (1) [~~An original~~] A baptismal certificate or religious record which shows the date of birth or age at a certain time and was recorded after age five;
- (2) A passport[;] or passport card;
- (3) An elementary school record which shows date of birth;
- (4) A census record which shows date of birth or age;
- (5) A voter registration record which shows date of birth;
- (6) A marriage record which shows date of birth or age;
- (7) A naturalization record which shows date of birth or age;
- (8) A military record which shows date of birth or age;
- (9) A hospital treatment or birth record which shows date of birth or age;
- (10) An insurance policy which shows date of birth;
- (11) A foreign passport which shows date of birth or age;
- (12) A child's birth certificate which shows the age of the member-parent; or
- (13) A [~~Hawaii state identification~~] birth registration card[~~;~~ ~~or~~

~~(14) A Hawaii driver's license~~. [Eff 2/9/89; am and comp 11/26/09; am and comp ]  
 (Auth: HRS §§88-28, 88-44) (Imp: HRS §§88-44, 88-73, 88-74, 88-83, 88-282, 88-283, 88-331, 88-332, 88-333)

SUBCHAPTER 3

COMPUTATION OF AGE

**§6-26-13 Computation of age to determine the actuarial equivalence of the maximum allowance.** (a) The member's age nearest a full year shall be used to determine the actuarial factors to be applied in determining the actuarial factors to be applied in determining the actuarial equivalence of the maximum allowance under any of the retirement allowance options described in sections 88-83, 88-283, and 88-333, HRS. In computing the nearest full year of age of a member, any fraction of six full months or more shall be considered as the next older year of age.

Example A:

Date of retirement	[ <del>2004</del> ]	<u>2027</u>	-	7	-	1
Date of birth	[ <del>1965</del> ]	<u>1942</u>	-	12	-	31
Actual age				61	-	6 - 0
Nearest age				62		

Example B:

Date of retirement	[ <del>2000</del> ]	<u>2027</u>	-	[ <del>6</del> ]	<u>7</u>	-	1
Date of birth	[ <del>1938</del> ]	<u>1965</u>	-	12	-	[ <del>12</del> ]	<u>31</u>
Actual age				61	-	[ <del>5</del> ]	<u>6</u> - [ <del>19</del> ]
Nearest age				62			

(b) The method of computing age prescribed in this section shall apply to a beneficiary when the age of the beneficiary is a factor in the computation of any benefit payable to the member and the beneficiary. [Eff 2/9/89; am and comp ] (Auth: HRS §88-28) (Imp: HRS §§88-83, 88-283, 88-333)

**§6-26-14 REPEALED.** [R 11/26/09]

**§6-26-15 Computation of age to determine the age reduction penalty.** (a) The member's age nearest the year and full months shall be used to determine the factors of actuarial equivalence to be applied in reducing the member's retirement allowance if the member has not reached the prescribed retirement age.

(b) In computing the nearest years and full months of age of a member, any fraction of fifteen or more days shall be considered as the next older month of age.

Example A:

Date of retirement	[ <del>2002</del> ] <u>2027</u> - 6 - 1
Date of birth	[ <del>1947</del> ] <u>1972</u> - 6 - 16
Actual age	54 - 11 - 15
Nearest age	55 - 0

Example B:

Date of retirement	[ <del>2002</del> ] <u>2027</u> - 6 - 1
Date of birth	[ <del>1947</del> ] <u>1972</u> - 6 - 17
Actual age	54 - 11 - 14
Nearest age	54 - 11

[Eff 2/9/89; am and comp 11/26/09; am and comp ] (Auth: HRS §88-28) (Imp: HRS §§88-74, 88-282, 88-332)

**§6-26-16 Computation of age to determine the member's age on the date of retirement.** The member's actual age in full years shall be used to determine the member's attained age on the date of retirement and shall be the member's age if the member's age is required to meet the retirement eligibility prerequisites under parts II, VII, and VIII of chapter 88, HRS.

Example A:

Date of retirement	[ <del>2008</del> ] <u>2027</u> - 7 - 1
Date of birth	[ <del>1946</del> ] <u>1965</u> - 12 - 31
Actual age	61 - 6 - 0
Nearest age	61

Example B:

Date of retirement	[ <del>2008</del> ] <u>2027</u> - 12 - 31
Date of birth	[ <del>1954</del> ] <u>1973</u> - 1 - 1
Actual age	54 - 11 - 30
Nearest age	54

[Eff11/26/09; am and comp ] (Auth: HRS §88-28) (Imp: HRS §§88-73, 88-74, 88-281, 88-282, 88-331, 88-332)

**§6-26-17 Thirty-day month.** For the purposes of this subchapter, each month will be deemed to have thirty days." [Eff and comp 11/26/09; comp ] (Auth: HRS §88-28) (Imp: HRS §§88-74, 88-282, 88-332)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments are not underscored.

4. These amendments to and compilation of Chapter 6-26, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Emmit Kane, Chairperson  
Employees' Retirement System  
of the State of Hawaii, Board  
of Trustees

\_\_\_\_\_  
Craig Hirai, Director  
Department of Budget and  
Finance

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General