

In subsection (b) of this section, the references to "employment while a member" are substituted for the former references to "service" for accuracy and to reflect that "service" is no longer a defined term.

In subsection (b)(2) and (3) of this section, the word "fiscal" is added to modify "first and last ... years" for clarity and to conform to the reference to a "fiscal year" in subsection (b)(1) of this section.

In subsection (b)(3) of this section, the reference to the "Board of Trustees" is added to clarify who has the responsibility to prorate the eligibility service.

Defined terms: "Board of Trustees" § 20-101

"Eligibility service" § 20-101

"Local Fire and Police System" § 20-101

"Member" § 20-101

28-303. SAME — BREAK IN SERVICE RULES.

(A) "BREAK IN SERVICE" DEFINED.

IN THIS SECTION, "BREAK IN SERVICE" MEANS A PERIOD OF SEPARATION FROM EMPLOYMENT IN A FISCAL YEAR AFTER THE ONE IN WHICH A MEMBER FIRST BECOMES EMPLOYED, IF DURING THAT FISCAL YEAR THE MEMBER DOES NOT COMPLETE MORE THAN 350 HOURS OF EMPLOYMENT WHILE A MEMBER.

(B) IN GENERAL.

A FORMER MEMBER IS ENTITLED TO THE ELIGIBILITY SERVICE TO WHICH THE FORMER MEMBER WAS ENTITLED BEFORE THE SEPARATION FROM EMPLOYMENT IF:

- (1) THE FORMER MEMBER HAS NOT INCURRED A BREAK IN SERVICE;
- (2) THE FORMER MEMBER WAS ENTITLED TO A VESTED ALLOWANCE AT THE TIME OF SEPARATION FROM EMPLOYMENT; OR

(3) (I) THE FORMER MEMBER HAS COMPLETED 1 YEAR OF ELIGIBILITY SERVICE AFTER A BREAK IN SERVICE; AND

(II) THE NUMBER OF CONSECUTIVE YEARS IN WHICH THE MEMBER INCURRED A BREAK IN SERVICE IS LESS THAN THE YEARS OF ELIGIBILITY SERVICE AS A MEMBER BEFORE THE BREAK IN SERVICE.

(C) DETERMINATION OF PRIOR ELIGIBILITY SERVICE.

TO DETERMINE IF A FORMER MEMBER IS ELIGIBLE FOR PRIOR ELIGIBILITY SERVICE UNDER SUBSECTION (B)(3)(II) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL DETERMINE THE NUMBER OF YEARS OF PRIOR ELIGIBILITY SERVICE:

(1) AS OF THE DAY THE FORMER MEMBER SEPARATED FROM EMPLOYMENT; BUT

(2) EXCLUDING ANY ELIGIBILITY SERVICE LOST BECAUSE OF A PRIOR BREAK IN SERVICE.