



## Ohio Revised Code

### Section 742.046 Disqualification of convicted member - misconduct in office - removal procedure.

Effective: April 6, 2007

Legislation: House Bill 272 - 126th General Assembly

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(A) The office of an employee member, firefighter retirant member, or police retirant member of the board of trustees of the police and fire pension fund who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election to the office of employee member, firefighter retirant member, or police retirant member of the board of trustees of the police and fire pension fund.

(B) A member of the board of trustees of the police and fire pension fund who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of common pleas of the county in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against a police officer employee member of the board, the complaint must be signed by a number of police officer members of the fund that equals at least the following and must include signatures of at least twenty police officer members residing in at least five different counties:

(a) If the police officer employee member was most recently elected in accordance with section



742.04 of the Revised Code, ten per cent of the number of police officers who voted in that election;

(b) If the police officer employee member most recently became a member of the board of trustees pursuant to section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of police officers who voted in the most recent election held in accordance with section 742.04 of the Revised Code for that police officer employee member position on the board of trustees.

(2) If the complaint is against a firefighter employee member of the board of trustees, the complaint must be signed by a number of firefighter members of the fund that equals at least the following and must include signatures of at least twenty firefighter members residing in at least five different counties:

(a) If the firefighter employee member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of firefighters who voted in that election;

(b) If the firefighter employee member most recently became a member of the board of trustees pursuant to section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of firefighters who voted in the most recent election held in accordance with section 742.04 of the Revised Code for that firefighter employee member position on the board.

(3) If the complaint is against the police retirant member of the board of trustees, the complaint must be signed by a number of police retirants that equals at least the following and must include signatures of at least twenty police retirants residing in at least five different counties:

(a) If the police retirant member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of police retirants who voted in that election;

(b) If the police retirant member most recently became a member of the board of trustees under section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of police retirants who voted in the most recent election held in accordance with section 742.04 of the Revised Code for the police retirant member position on the



board.

(4) If the complaint is against the firefighter retirant member of the board of trustees, the complaint must be signed by a number of firefighter retirants that equals at least the following and must include signatures of at least twenty firefighter retirants residing in at least five different counties:

(a) If the firefighter retirant member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of firefighter retirants who voted in that election;

(b) If the firefighter retirant member most recently became a member of the board of trustees under section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of firefighter retirants who voted in the most recent election held in accordance with section 742.04 of the Revised Code for the firefighter retirant member position on the board.

(D) The clerk of the court of common pleas in which a complaint against a member of the board of trustees is filed under division (A) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full, detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of



public record.

The board member has the right to appeal to the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.