Table of Contents

Title 58
RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions 1
§101. Definitions 1
§109. Waiver of the Electronic Funds Transfer Requirement 1
§111. Contributions by Electronic Funds Transfer or Certified Check 1
§113. Rollover of Refunds 1
§115. Plan Year 1
§117. Limitations Year 1
Chapter 3. Election of Active Member Trustees 1
§301. Eligible Candidates [Formerly §303.A] 1
§303. Nomination Process [Formerly §303.A] 2
§305. Vacancies; Special Elections 2
§307. Optional Retirement Plan Participants 2
Chapter 4. Rules Common to the Election of Both Active and Retired Member Trustees 2
§401. General Schedule of Elections [Formerly §§301 and 501.B] 2
§403. Receipt of Nominating Petitions 3
§405. Election Process [Formerly §§303.C-I and 503.C-J] 3
§407. Winning Candidates [Formerly LAC 58:I.303.B and G, 501.A and 503.H] 3
§409. Candidates Withdrawing Prior to Election 4
§411. No Solicitation [Formerly §303.J and §503.K] 4
Chapter 5. Election of Retired Member Trustees 4
§501. Eligible Candidates [Formerly §503.A] 4
§503. Nomination Process 4
§505. Vacancies; Special Elections [Formerly §507] 5
Chapter 7. Purchase of Military Service under R.S. 11:153 5
§701. Purchase of Military Service 5
§703. Requirements for Application to Purchase Military Service 5
Chapter 9. Purchase of Retirement Credit under R.S. 29:411 et seq., and the Uniformed Services Employment and Reemployment Rights Act 5
§901. Requirements 5
§903. Exclusions 6
§905. Limitations 6
§907. Credit for Eligibility or Benefit Purposes 6
§909. Certification of Military Service 6
§911. Differential Payments Made by the Agencies 6
§913. Payment of Contributions after Military Service is Completed 6
§915. Death and Survivor Benefits 7
Chapter 11. Voluntary Deductions from Retiree Benefits Payroll 7
§1101. Application Process for Voluntary Payroll Deduction 7
§1103. Vendor Requirements 7
§1105. Notification, Implementation and Transition 8
§1107. Deduction Authorization 8
§1111. Vendor Responsibilities 8
§1113. LASERS' Responsibilities 9

§1115. Reporting 9
§1119. Termination of Payroll Deduction 9
§1121. General Provisions 9
Chapter 13. Emergency Refunds 9
§1301. Conditions Giving Rise to an Emergency Refund 9
§1303. Procedure for an Emergency Refund 9
§1305. Responsibility for Overpayment of a Refund 10
Chapter 15. Purchases and Transfers of Service 10
§1501. Purchases and Transfers of Service; Calculations; Costs 10
§1503. Transfers of Service; Other Requirements 10
Chapter 17. Purchases of Service by Reinstated Employees 10
§1701. Purchases of Service by Reinstated Employees 10
§1703. Effect of Reinstatement 10
§1705. Service Credit for Dual Employment 11
§1709. Partial Repayment of Refund of Contributions 11
Chapter 21. Credit for Part-Time Service and Service in Multiple Positions 11
§2101. Credit for Part-Time Service and Service in Multiple Positions 11
Chapter 23. Renunciation of Benefit 12
§2301. Terms and Conditions of Renunciation of Benefit 12
Chapter 25. Procedures for Processing Disability Applications 12
§2515. Report to the Board of Trustees 12
§2517. Appointment of Physicians to the State Medical Disability Board 12
Chapter 27. DROP Program 13
Subchapter A. Participation 13
§2701. Eligibility 13
Subchapter B. "Old" DROP 13
§2703. Participation in Three-Year Program 13
§2705. Effects of Participation 13
Subchapter C. Withdrawal 13
§2711. Methods of Withdrawal 13
§2713. Time for Disbursement 14
§2715. Interest 14
§2717. Changes in Withdrawal 14
Subchapter D. "New" DROP 14
§2719. Eligibility 14
§2721. Participation in New DROP 14
§2723. Initial Benefit Option 15
Chapter 29. Spousal Consent 15
§2901. Spousal Consent to Retirement Option 15
§2903. Instances Where Spousal Consent Is Not Required 16
Chapter 31. Excess Benefit Arrangement 16
§3101. Participation 16
§3103. Benefit 16
§3105. Contributions 16
§3107. Excess Plan Fund 16
§3109. Funding Assets 16
§3111. Non-Assignability of Benefits 17
§3113. Plan Administration 17
§3115. Retirement Benefit 17
§3117. DROP Benefits 17

Chapter 35. Optional Retirement Plan 17
§3501. Plan Year 17
§3503. Participation 18
§3507. Employee Contributions 18
§3509. Employer Contributions 18
§3511. ORP Provider 18
§3513. Investment Options 18
§3515. Benefit Obligations 18
§3517. Distribution 18
Chapter 37. Leave Conversion to Retirement Credit or Cash Payment 19
§3701. Conversion of Leave to Retirement Credit 19
§3703. Lump Sum Payment of Leave 19
§3705. Tax Liability 19
Chapter 41. Self-Directed Plan 19
§4101. SDP Provider 19
§4103. Persons Vesting for DROP Prior to January 1, 2004 19
§4105. Eligibility for Transfer of Funds into SDP 19
§4107. Rollovers Out of SDP to Other Providers 19
§4109. Right to Recover Overpayments 19
§4111. Time to Transfer Funds 19
§4113. Spousal Consent 20
§4115. Completion of Notification Form 20
§4117. Distributions 20
§4119. No In-Service Distribution 20
§4121. Civil Service Reinstatement 20
§4123. Beneficiary 20
§4125. Investment Options 20
§4127. Participant Investment Direction 21
§4129. Distributions from the Plan 21
§4131. Domestic Relations Orders 21
§4133. Disclaimer 21
§4135. No DROP Interest 21
Chapter 43. Actuarial Calculations 21
§4301. Charges for Actuarial Calculations 21
Chapter 45. Effects of Act 75 of the 2005 Regular Session 22
§4501. Members Affected 22
§4503. Vesting Because of Prior State Employment 22

Part III. Teachers' Retirement System of Louisiana

Chapter 1. General Provisions 23
§101. Mandatory Submission of Monthly Salaries and Contributions Reports, Contributions Corrections, Prior Years Certification/ Corrections of Member Data and (RET) Annual Salary Files 23
§103. Rulemaking Procedures and Commentary 23
Chapter 2. Earnable Compensation Accounts 25
§201. Earnable Compensation Accounts 25
Chapter 3. Charter Schools 25
§301. Definitions 25
§303. Membership 25

Chapter 4. Purchase of Service Credit 26
§401. Purchase of Service Credit for Involuntary Furlough or Leave without Pay (LWOP) Due to Gubernatorially Declared Disaster/Emergency 26
Chapter 5. Deferred Retirement Option Plan (DROP) 27
§501. Definitions and General Provisions 27
§502. Service Requirements for School Food Service Plan A 27
§503. Management of DROP Accounts 27
§505. Duration of DROP Participation 28
§509. Withdrawal of Funds from a DROP Account 28
§511. Change of DROP Withdrawal Method 29
§513. Termination of DROP Participation 29
§515. Death of Beneficiary 29
§517. Affidavit of Plan Election 29
Chapter 7. Renunciation of Benefits 29
§701. General 29
Chapter 11. Voluntary Deductions from Retiree Benefits Payroll 30
§1101. General 30
§1103. Application Process 30
§1105. Company, Credit Union and Professional Organization Requirements 31
§1107. Disclaimer 31
§1109. Transmittal of Withheld Amounts 31
§1111. Termination of Payroll Deduction 32
Chapter 13. Cost-of-Living 32
§1301. Cost-of-Living Adjustment—July 2, 1995 32
§1303. Cost-of-Living Adjustment—July 1, 1998 32
Chapter 15. Optional Retirement Plan (ORP) 32
§1501. Definitions 32
§1503. Plan Year 34
§1505. Establishment of Plan 34
§1507. Eligibility and Election to Participate 35
§1509. Employee Contributions 36
§1511. Employer Contributions 36
§1513. Distributions 36
§1515. Rollover Distribution 39
§1517. Benefit Limitation 40
§1519. Annual Compensation Limitation 41
§1521. Fiduciary Responsibility 41
§1523. Plan Assets 42
§1525. Vesting 42
§1527. Governing Law 42
§1529. USERRA 42
§1531. ORP Providers 43
Chapter 17. Defined Benefit Plan *Internal Revenue Code* Provisions 43
§1701. Use of Plan Assets 43
§1703. Heroes Earnings Assistance and Relief Tax Act of 2008 43
§1705. Domestic Relations Orders 44
§1707. Limitations on Contributions and Benefits 44
§1709. Group Trust Participation 47
Chapter 19. ReNEW Charter Management Organization 47
§1901. ReNEW Charter Management Organization Employees 47

Chapter 21. Uniformed Services Employment and Reemployment Rights Act (USERRA) 48
§2101. Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) 48

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 1. Qualified Domestic Relations Orders 49
§101. Determining Qualified Status of Domestic Relations Orders 49
§103. Definitions 49
§105. QDRO Language 50
§107. Notice 50
§109. Determination 50
§111. Payments Pending Determination 51
§113. Representative of Alternate Payee 51
Chapter 3. Procedural Rules and Regulations of the Board of Trustees 51
§301. Definitions 51
§303. Organization, Rules, and Procedures of the Board 51
§305. Application Procedure, Initial Determination, and Notice 52
§307. Hearing Procedures, Appeal, Oath, Testimony, Production of Records and Depositions 52
§309. Judicial Review 53
Chapter 5. Direct Rollovers 53
§501. Requirements 53
Chapter 7. Partial Buy Back and Partial Restoration of Forfeited Credits of Service 54
§701. Partial Buy Back and Partial Restoration of Forfeited Credits of Service 54
Chapter 9. Death Benefits 54
§901. Definitions 54
§903. Beneficiary Designations and Election of Retirement and Death Benefits 55
§905. Calculation of Death Benefits 55
§907. Preretirement Death Benefits 55
§909. General 56
Chapter 11. Calculation of Benefits 57
§1101. Definitions 57
§1103. General 57
§1105. Calculation of Benefit Amount 57
Chapter 13. Service Credit 58
§1301. Reciprocal Recognition of Credited Service—Reciprocal Benefit 58
§1303. Transfer of Service Credits 60
§1305. Sick and Annual Leave 62
Chapter 15. Deferred Retirement Option Plan 63
§1501. Definitions 63
§1503. Eligibility 63
§1505. Participation in and Withdrawal from the DROP 64
§1507. Post-DROP Accruals and Retirement Benefits 66
§1509. Trustees' Procedures Applicable to Payments to DROP Accounts 67
§1511. General 69
Chapter 17. Election Rules 69
§1701. Nominations 69
§1703. Election Committee 69
§1705. Ballot Procedure 69

§1707. Installation of Elected Members 70
§1709. Election Inquiries 70
§1711. Special Elections 70
Chapter 19. Partial Lump-Sum Option Payment 70
§1901. General Rules for Participation 70
§1903. Distributions from Partial Lump-Sum Option Payment 71
Chapter 20. Tax Qualification Provisions 71
§2001. General Provisions 71
§2003. Actuarial Equivalence 71
§2005. Military Service 72

Part VII. School Employees' Retirement System

Chapter 1. Administration of Act 416 of 1976 73
§101. Rules for the Administration of Act 416 of 1976 73
Chapter 3. Interest Rates 73
§301. Interest Rates Charged on Purchases of Service Credit 73
Chapter 4. *Internal Revenue Code* Provisions 73
§401. Limitation on Benefits 73
§403. Required Minimum Distributions 80
§405. Direct Rollovers 80
§407. Annual Compensation Limitation 81
§409. Participation in Group Trusts 81

Part IX. State Police Retirement System

Chapter 1. Service Credit 83
§101. Military Service Credit 83
Chapter 2. *Internal Revenue Code* Provisions 83
§201. Limitation on Benefits 83
§202. Required Minimum Distributions 89
§203. Direct Rollovers 90
§204. Annual Compensation Limitation 90
§205. General 91
Chapter 3. Procedures for Election of Louisiana State Police Retirement System Trustees 91
§301. General Election Procedures 91
§303. Ballots, Count, Tabulation, Posing, Oath of Office 91
§305. Vacancy 92

Part XI. Parochial Employees' Retirement System

Chapter 1. General Provisions 93
§103. Definitions 93
Chapter 3. Eligibility 93
§301. Persons Not Eligible for Membership; Leased Employees 93
§303. Creditable Service; Uniformed Services Employment and Reemployment Rights Act 93
Chapter 5. Scope of Benefits 94
§501. Limitation on Payment of Benefits 94
§503. Early Payment of Benefits 94
§505. Compensation Limited 95
§507. Transfer of Benefits 95
§509. Computation of Retirement Benefits 96

Chapter 7. Terminations 97
§701. Procedures for Determination of the Unfunded Accrued Liability 97

Part XIII. Firefighters' Retirement System

Chapter 1. General Provisions 99
§101. Survivor Benefits; Procedures to Use When Determining Whether Member's Death Occurred in the Line of Duty 99

Part XV. Sheriffs' Pension and Relief Fund

Chapter 1. General Provisions 101
§101. Court Order or Judgment 101
§103. Eligible Rollover Distribution 101

Part XVII. Registrars of Voters Employees' Retirement System

Chapter 1. Procedures for Election of Registrars of Voters Employees' Retirement System Trustees 103
§101. General Election Procedures 103
§103. Ballots, Count, Tabulation, Posting, Oath of Office 103
§105. Vacancy 103
Chapter 2. *Internal Revenue Code* Provisions 103
§201. Limitation on Benefits 103
§202. Required Minimum Distributions 110
§203. Direct Rollovers 110
§204. Annual Compensation Limitation 111
§205. General 111
Chapter 3. Final Average Compensation 112
§301. Calculation of Post-Drop Final Average Compensation 112
§303. Actuarial Equivalent 112

Part XVIII. Municipal Police Employees' Retirement System

Chapter 1. *Internal Revenue Code* Provisions 115
§101. Limitation on Benefits 115
§102. Required Minimum Distributions 121
§103. Direct Rollovers 122
§104. Annual Compensation Limitation 122
§105. Vesting of Benefits at Plan Termination 123
§106. Participation in Group Trusts 123
Chapter 3. Deferred Retirement Option Plan (DROP) 123
§301. Definitions 123
§303. Withdrawals and Interest 123
Chapter 5. Military Service Purchases 124
§501. Service Credit 124
Chapter 7. Renunciation of Benefits 124
§701. Terms and Conditions of Renunciation of Benefit 124
Chapter 9. Survivor Benefits 124
§901. Definitions 124
Chapter 11. Reinstated Employees 125
§1101. Purchases of Service by Reinstated Employees 125
Chapter 13. Disability Retirement 125
§1301. Qualifications for Disability Retirement 125

Chapter 15. Trustee Elections 126
§1501. Schedule 126
§1502. Nominations 127
§1503. Voting in General 127
§1504. Online Voting 128
§1505. Mail Voting 128
§1506. Election Results 128
Chapter 17. Employers 128
§1701. Mandatory Enrollment of Employees Employed by 11:157 Employers 128

Part XIX. Assessors' Retirement Fund

Chapter 1. General Provisions 129
§101. Compensation 129
§103. Actuarial Equivalent 130
§105. Accumulated Contributions, Rollovers 131
§107. Definitions 132
Chapter 3. Creditable Service 132
§301. Death Benefits for Qualified Military Service 132
Chapter 5. Limitation on Payment of Benefits 132
§501. Suspension of Benefits 132
§503. Required Beginning Date 132
§505. Benefit Limitations 132
Chapter 7. Accumulated Contributions 133
§701. Benefit Limitations 133
§703. Rollover of Returned Contributions 134
§705. Repayment of Withdrawn Accumulated Contributions 134

Part XXI. District Attorneys' Retirement System

Chapter 1. General Provisions 135
§101. Compensation 135
§103. Actuarial Equivalent 136
§105. Accumulated Contributions, Rollovers 137
§107. Repayment of Withdrawn Accumulated Contributions 138
Chapter 3. Creditable Service 139
§301. Benefits for Qualified Military Service 139
Chapter 5. Limitation on Payment of Benefits 139
§501. Suspension of Benefits 139
§503. Definitions 139
§505. Benefit Limitations 140
Chapter 7. Required Minimum Distributions 141
§701. Required Beginning Date 141
Chapter 9. Funding of Retirement System 143
§901. Employer Contributions 143

Part XXIII. Survivor Benefit Board

Chapter 1. Law Enforcement Officers and Firemen's Survivor Benefit Board (Formerly LAC 37:I.Chapter 11) 145
§101. Survivors Benefits (Formerly LAC 37:I.1101.A-B) 145
§103. Definitions (Formerly LAC 37:I.1101.C) 145
§105. Board Membership and Domicile (Formerly LAC 37:I.1101.D) 145

§107. Claims Requests (Formerly LAC 37:I.1101.E) 146
§109. Procedures for Hearings (Formerly LAC 37:I.1101.F) 146
§111. Appeals (Formerly LAC 37:I.1101.G) 147

Part XXV. Municipal Employees' Retirement System

Chapter 1. General Provisions 149
§101. Definitions 149
§105. Payment of Benefits 149
§108. Rollover of Refunds 149
§110. Plan Year 149
Chapter 2. Elections 149
§201. Active Eligible Candidates 149
§203. Retiree Eligible Candidates 150
§205. General Schedule of Elections 150
§207. Specific Schedule of Elections 150
§210. Nomination Process 150
§215. Election Process 151
§220. Emergency Situations 151
Chapter 3. Employer Agreements 151
§301. Employer Agreements 151
Chapter 4. Community Property 151
§401. Spousal Rights 151
Chapter 5. Refunds 152
§501. Method of Payment 152
§503. Documentation Required 152
§505. Vested Employees 152
Chapter 6. Reemployed Retirees 152
§601. Eligibility 152
§603. Waiting Period 152
§605. Earnings Limit for Part-Time Reemployed Retirees 152
Chapter 7. Conversion of Leave 152
§701. Eligibility 152
§705. Reporting 153
§710. Payment 153
Chapter 8. Disability Retirement 153
§801. Application Process 153
Chapter 9. Insurance Premium Deductions 153
§901. Collection of Insurance Premiums 153
Chapter 10. Deferred Retirement Option Plan (DROP) 154
§1001. Application Process 154
§1003. Ineligible for DROP 154
§1005. Third Party Provider 154
Chapter 11. Fees 154
§1101. Adoption of Fees 154
Chapter 12. Military Service Purchases 154
§1201. Service Credit 154
Chapter 13. Renunciation of Benefits 155
§1301. Terms and Conditions to Renounce a Benefit 155

Chapter 14. Collection of Employer Contributions 155
§1401. Due Dates 155
§1403. Late Contributions 155
Chapter 15. Money Manager Obligations 156
§1501. Reporting by Money Managers 156

Title 58
RETIREMENT
Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions

§101. Definitions

A. Wherever in these regulations the masculine is used, it includes the feminine and vice versa. Wherever the singular is used, it includes the plural and vice versa. The following definitions shall apply to all regulations promulgated under Part I, unless the usage clearly indicates another meaning.

Active Member—a member of the Louisiana State Employees' Retirement System who is in state service.

Active Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are active employees, or participating in DROP.

Board of Trustees or *Board*—the board of trustees of the Louisiana State Employees' Retirement System.

Director—the executive director of the Louisiana State Employees' Retirement System.

DROP—Deferred Retirement Option Plan.

Inactive Member—a member who is out of state service but is not retired and has left his contributions in the system.

LASERS—the Louisiana State Employees' Retirement System.

Retired Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are retired, but not those members who are participating in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:120 (January 1998), amended LR 43:89 (January 2017).

§109. Waiver of the Electronic Funds Transfer Requirement

A. LASERS may, at its option, issue paper checks in lieu of an Electronic Funds Transfer (EFT) to surviving minor children under R.S. 11:471 et seq., in order to avoid overpayments or other administrative issues associated with the payment of such benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 11:479.
HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 31:1611 (July 2005).

§111. Contributions by Electronic Funds Transfer or Certified Check

A. Under circumstances as determined by the executive director, LASERS may require agencies to submit employee and employer contributions by electronic funds transfer ("EFT") or certified check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 33:2468 (November 2007).

§113. Rollover of Refunds

A. Qualified rollovers of accumulated employee contributions to be refunded may be made to two different accounts with a minimum of $500 to each account. Refunds of funds totaling less than $500 shall be limited to a single account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 34:97 (January 2008).

§115. Plan Year

A. The plan year for LASERS shall be July 1-June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 39:120 (January 2013).

§117. Limitations Year

A. The limitations year for LASERS shall be January 1-December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 39:120 (January 2013).

Chapter 3. Election of Active Member Trustees

§301. Eligible Candidates [Formerly §303.A]

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least 10 years of credited service (excluding any military service credit) as of the date on which nominations close. Optional retirement plan participants do not acquire

service credit and are prohibited from running for trustee positions by §307 of this Chapter.

B. A participant in the Deferred Retirement Option Plan who has not yet terminated state service and who is still employed by the state is eligible to run as an active member candidate for election to the board of trustees, so long as he qualifies under Subsection A of this Section.

C. A rehired retiree who has selected Option 2 of R.S. 11:416 or Option 2 of R.S. 11:416.1 is eligible to run as an active member candidate for election to the board of trustees, so long as he qualifies under Subsection A of this Section.

D. A disability retiree who has returned to work under either R.S. 11:224 or R.S. 11:225 is eligible to run as an active member candidate for election to the board of trustees, so long as he qualifies under subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 31:946 (April 2005), LR 34:446 (March 2008), LR 37:1614 (June 2011).

§303. Nomination Process [Formerly §303.A]

A. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more active members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements for trustee. Those active members signing the petition shall also supply the final four digits of their Social Security number. When returning the nominating petition, the candidate should include his qualifications, platform and photograph for inclusion in the election brochure circulated by LASERS. In years where a special election is held, a candidate shall clearly state in his petition whether he is running for a four-year term or for the unexpired portion of the term that is the subject of the special election.

B. The printed name of those persons signing the nominating petition must be legible for purposes of verification. Unverifiable signatories shall not count toward the required total of 25 and may disqualify the petition.

C. In years where a special election is held, a candidate shall clearly state in his petition whether he is running for a four-year term or for the unexpired portion of the term that is the subject of the special election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 31:946 (April 2005), LR 34:446 (March 2008), LR 37:1615 (June 2011).

§305. Vacancies; Special Elections

A. The board shall appoint a member to fill any active member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the active member position. The board may give due consideration to the runners-up in the previous election, if those members are willing to serve and the appointment does not violate law or these regulations.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneous with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election. Candidates for four year terms may not also be candidates to complete unexpired terms.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 35:271 (February 2009), LR 37:1615 (June 2011).

§307. Optional Retirement Plan Participants

A. Because optional retirement plan participants do not acquire service credit for purposes of determining eligibility under R.S. 11:511(4), these participants are not eligible to vote in the trustee elections or run for a position on the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:2633 (November 2000), amended LR 37:1615 (June 2011).

Chapter 4. Rules Common to the Election of Both Active and Retired Member Trustees

§401. General Schedule of Elections [Formerly §§301 and 501.B]

A. Elections shall be held in years ending with an odd number.

1. Three active member trustees shall be chosen in each election and shall serve a four-year term.

2. Beginning in 1995 and continuing thereafter every four years, two retired member trustees shall be chosen in an election and shall serve a four year term. Beginning in 1997 and continuing thereafter every four years, a single retired trustee shall be chosen in an election and shall serve a four year term.

B. The schedule for elections shall be as follows:

1. first day in March: nominations shall be opened;

2. second Tuesday in July: nominations shall be closed. All nominating petitions must be received by the close of business (4:30 p.m. Central time);

3. Monday following second Tuesday in July: a drawing shall be held to determine candidate positions on a ballot;

4. fourth Friday in September: the final day that information on candidates and ballots may be mailed;

5. fourth Friday in October: all ballots or electronic votes must be received by the close of business (4:30 p.m. Central time). No faxed ballots shall be accepted;

6. Wednesday following fourth Friday in October: all ballots and electronic votes shall be tallied and verified by this date;

7. regular November meeting: the board shall be presented with the certified ballot count, and if it is accepted, shall authorize publication of results;

8. January following election: newly elected members receive orientation; oaths shall be taken prior to the regular January meeting.

C. In order to facilitate the election process, in the event of a disaster or emergency declared by executive order or proclamation of the governor, the executive director may change the election schedule. Such a schedule change shall be in effect for a single election cycle only, after which the schedule shall return to that set forth in Subsection B of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August 1997), LR 25:1278 (July 1999), LR 26:2633 (November 2000), LR 33:1151 (June 2007), LR 34:446, 447 (March 2008), LR 37:1615 (June 2011), LR 39:119 (January 2013).

§403. Receipt of Nominating Petitions

A. Signed nominating petitions will be accepted if received by facsimile or emailed by the date nominations are closed so long as original nominating petitions are received by 4:30 p.m. central time on the first Friday following the close of nominations. If originals are not received by that deadline, the person in whose name they are submitted shall not be qualified as a candidate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 37:1616 (June 2011).

§405. Election Process [Formerly §§303.C-I and 503.C-J]

A. Active Members. Ballots or election brochures shall be distributed to each active member by the fourth Friday in September. This includes active members who are not deemed by LASERS to be retired before July 1 of the year in which the election is to take place and participants in the DROP program who have not terminated service.

B. Retired Members. Ballots or election brochures shall be distributed to each retired member by the fourth Friday in September. A member who is deemed by LASERS to be retired before July 1 of the year in which the election is to take place shall be considered a retired member for the purposes of this Section.

C. There shall be a drawing as set forth in LAC 58:I.401 in the retirement systems building, 8401 United Plaza Boulevard, Baton Rouge, LA, to determine the position each candidate shall have on the ballot or election brochure.

D. Each active member may vote for three candidates.

E. Each retiree may vote for two candidates during the election when two retiree members are up for election, but may only vote for one candidate during the election where only one retiree member is up for election. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes.

F. If electronic voting methods are utilized, members shall follow the instructions on the election brochure for registering their votes. Votes shall be confidential. Ballots or electronic votes received after the close of business on the fourth Friday in October (4:30 p.m. central time) shall be rejected. Ballots must be returned to the address set forth in the instructions on the election brochure.

G. Votes shall be tallied in accordance with the general schedule of elections.

H. The executive director shall submit a written report of the election results to the board of trustees no later than the regular November meeting of the board of trustees.

I. Upon receipt of the results of the election, the board of trustees shall timely promulgate the election and notify the successful candidates of their election and the secretary of state, so as to allow the candidates sufficient time to take and file the oath of office with the Secretary of State within the time specified by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:946, 947 (April 2005), LR 34:446, 447 (March 2008), LR 37:1616 (June 2011), LR 39:119 (January 2013), LR 41:1772 (September 2015).

§407. Winning Candidates [Formerly LAC 58:I.303.B and G, 501.A and 503.H]

A.1. Active Members. The three candidates who receive the most votes shall be declared successful candidates and presented to the board.

2. Retired Members. Beginning in 1995 and continuing thereafter every four years, the two retired member candidates who receive the most votes shall be declared successful candidates and presented to the board. Beginning in 1997 and continuing thereafter every four years, the retired member candidate who receives the most votes shall be declared the successful candidate and presented to the board.

B. Ties affecting elected positions shall be decided by a coin toss held by the executive director in the presence of the candidates affected or the representative they designate.

C. No department in the executive branch of state government may have more than two active trustees serving on the board at the same time. *Ex officio* trustees and their designees do not count toward this limit.

D. If, after the conclusion of the nomination process, the number of candidates does not exceed or is fewer than the number of open positions for which election is being held, no election shall be held for those positions, and those candidates that are nominated and are qualified shall be deemed successful candidates and presented to the board.

1. Active Member Trustees' Elections. Any remaining open positions shall be filled in accordance with Title 58, Part I, Chapter 3, §305 of the *Louisiana Administrative Code*.

2. Retired Member Trustees' Elections. Any remaining open positions shall be filled in accordance with Title 58, Part I, Chapter 5, §505 of the *Louisiana Administrative Code*.

E. Subsection D shall apply to both active member trustee elections and retired member trustee elections.

F. For all relevant purposes, those candidates elected under Subsection D shall be considered to have received the maximum number of votes possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:946, 947 (April 2005), LR 34:446, 447 (March 2008), LR 37:1616 (June 2011), LR 39:119 (January 2013), LR 41:1773 (September 2015).

§409. Candidates Withdrawing Prior to Election

A. A candidate may withdraw his candidacy at any time. If he withdraws prior to the deadline for voting, all votes cast for him shall not be counted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 37:1616 (June 2011).

§411. No Solicitation [Formerly §303.J and §503.K]

A. Candidates for election to the LASERS board of trustees shall not solicit employees of LASERS to participate in their campaigns, and LASERS' employees cannot participate, or give assistance to any member who is running for election or re-election to the board. Candidates shall not solicit or have contact with any vendor or employee of a vendor who is providing LASERS with products or services related to elections of the LASERS board of trustees. LASERS employees are free to sign nominating petitions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:996, 997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:946, 947 (April 2005), LR 34:446, 447 (March 2008), LR 37:1616 (June 2011).

Chapter 5. Election of Retired Member Trustees

§501. Eligible Candidates [Formerly §503.A]

A. A candidate for a position of retired member trustee on the board of trustees must be a retired member of the system who has been on retired status (not including retired status under the Deferred Retirement Option Plan) by the date on which nominations close.

B. A rehired retiree who selected either Option 1 or Option 3 of R.S. 11:416 or Option 1, Option 3 or Option 4 of R.S. 11:416.1 is eligible to run as a candidate for a position of retired member trustee on the board of trustees.

C. A participant in the Deferred Retirement Option Plan who has not yet terminated state service and who is still employed by the state is not eligible to run for board election as a retired member candidate.

D. A disability retiree who has returned to work under either R.S. 11:224 or R.S. 11:225 is not eligible to run as a retired member candidate for election to the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:997 (August 1997), LR 25:1278 (July 1999), LR 26:1490 (July 2000), LR 26:2633 (November 2000), LR 31:947 (April 2005), LR 34:447 (March 2008), LR 37:1617 (June 2011).

§503. Nomination Process

A. The board of trustees shall accept the name and final four digits of the Social Security number of every candidate nominated by petition of 25 or more retired members of the system and shall place the name of such candidates on the ballot, provided each such candidate meets the requirements

for trustee. Those retired members signing the petition shall also supply the final four digits of their Social Security number. When returning the nominating petition, the candidate should include his qualifications, platform and photograph for inclusion in the election brochure circulated by LASERS.

B. The printed name of those persons signing the nominating petition must be legible for purposes of verification. Unverifiable signatories shall not count toward the required total of 25 and may disqualify the petition.

C. In years where a special election is held, a candidate shall clearly state in his petition whether he is running for a four-year term or for the unexpired portion of the term that is the subject of the special election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 37:1617 (June 2011).

§505. Vacancies; Special Elections [Formerly §507]

A. The Executive Board of the Retired State Employees Association shall appoint a member to fill any retired member vacancy created on the board. The appointee shall possess the necessary qualifications under R.S. 11:511 for the retired member position.

B. The appointment shall be valid only until January 1 of the year following the next election.

C. When the unexpired term for the vacancy is greater than two years, a special election shall be held to fill the vacancy simultaneously with the election ordinarily held in odd number years. The ballot for the special election may be the same as that used in the regular election.

D. The deadlines and procedures for special elections shall be identical to those for elections normally held in years ending with odd numbers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511, R.S. 11:512 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 23:998 (August 1997), amended LR 37:1617 (June 2011).

Chapter 7. Purchase of Military Service under R.S. 11:153

§701. Purchase of Military Service

A. A maximum of four years of credit for military service may be purchased by members who rendered military service in accordance with R.S. 11:153, provided the member received a discharge other than dishonorable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000), amended by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 43:1987 (October 2017).

§703. Requirements for Application to Purchase Military Service

A. In order to apply for purchase of the service, an active member shall:

1. make application to LASERS;

2. provide a copy of military form DD 214;

3. certify that he is not drawing a regular retirement benefit based on the military service calculated on the basis of age and service (This restriction does not apply to disability benefits based on 25 percent or less disability received as a result of military service); and

4. certify that he has not received credit for the service in any other public retirement system;

5. pay for the calculation of the actuarial calculation to determine the cost to purchase the service.

B. The active member shall pay the actuarial cost to receive the service credit. Upon receipt of the items listed above, LASERS shall issue an invoice to the active member. The invoice is void if not paid within 90 days after the date issued. Payment shall be made in a lump sum.

C. The payment of the cost shall be credited to the member's account. If the member later separates from state employment and requests a refund of contributions, the amount paid shall be refunded along with other employee contributions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:153.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 32:265 (February 2006), LR 43:1987 (October 2017).

Chapter 9. Purchase of Retirement Credit under R.S. 29:411 et seq., and the Uniformed Services Employment and Reemployment Rights Act

§901. Requirements

A. In order to qualify for retirement credit for military service, at the time the individual was called to active military service, he or she shall have been:

1. a state employee in a position that is other than temporary including, but not limited to, probational and permanent Civil Service positions;

2. an active member of the Louisiana State Employees' Retirement System;

3. a member of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United

States, Air Force Reserve, or the Coast Guard Reserve (hereinafter called reservist) called to active duty; and

4. shall have been released from active duty after satisfactory completion of military duty, in accordance with the provisions of 50 U.S.C. §459. Release shall have been other than dishonorable.

B. The member, at his option, shall pay the required employee contributions to the retirement system during his period of service in the uniformed service, or if he chooses not to make such payment during his military duty, he is entitled to purchase such credit in accordance with §901 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§903. Exclusions

A. Employees who were in temporary positions such as, but not limited to, restricted appointments, job appointments, provisional appointments, and student workers are not eligible for retirement credit. Elected officials and appointed officials in positions established by the constitution or laws of the state are eligible for retirement credit. Reservists who were participating in the Deferred Retirement Option Plan at the time of military service are not eligible to receive service credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411, R.S. 29:415.1 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§905. Limitations

A. Members may receive no more than a total of five years of military service credit in the retirement system for military service rendered in accordance with R.S. 29:411 et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 43:1987 (October 2017).

§907. Credit for Eligibility or Benefit Purposes

A. In accordance with provisions of USERRA, a member shall receive credit for purposes of determining eligibility for retirement at no cost to the individual or agency. In order to receive credit for purposes of calculating the retirement benefit, contributions shall be paid to the retirement system in accordance with section 414(u) of the *Internal Revenue Code*. If the employee was on paid leave during the period of active military service, the employee has received retirement credit for that service and no additional information need be furnished to the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 43:1987 (October 2017).

§909. Certification of Military Service

A. In order to receive retirement credit for eligibility or benefits purposes, the employee shall provide:

1. discharge or release notice (Form DD214) and any other pertinent documentation from the appropriate military entity which provides the inclusive dates of active service or discharge from hospitalization incidental to the military service;

2. documentation from the agency certifying that the reservist was employed in a position other than temporary on the date the active duty began; and

3. certification from the agency that the reservist applied for reemployment within 90 days of release from military service or discharge from hospitalization incidental to the military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§911. Differential Payments Made by the Agencies

A. Many reservists active duty base pay may be less than their state base pay. The reservist may elect to pay contributions on the entire amount of state earnings that would have been received in order to receive retirement credit for benefit purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:411 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§913. Payment of Contributions after Military Service is Completed

A. The employer shall pay the employer contribution.

B. The amount of contributions is based upon the amount of earnings the employee would have received if still employed. This includes any increases in compensation the employee would have received if he or she had remained in employment during the period of military service. If the employee's compensation varies, such as for legislators, the average monthly earnings for the 12 months preceding the active military service shall be used to determine the amount of contributions.

C. The employer shall determine the amount of earnings that would have been earned and compute the employee and employer's contributions that are due.

D. The employee shall pay the employee contributions to the agency. The agency shall remit the employee and

employer contributions to LASERS within 30 days after the employee has paid his or her portion. The agency shall provide a monthly breakdown of the earnings and contributions for each member and the certification documents to LASERS.

E. Payment for military service shall be made in accordance with section 414(u) of the *Internal Revenue Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 43:1987 (October 2017).

§915. Death and Survivor Benefits

A. The period of military service received under the provisions of Chapter 9 shall be counted as creditable service for determining eligibility for death and survivor benefits. The amount of survivor benefits payable shall be calculated as provided for in R.S. 11:471 et seq.

B. The final average compensation used for the calculation shall be based on the actual earnings of the member. In order for the estimated earnings during the period of military service to be used in the determination of the final average compensation, the employee and employer's contributions shall be paid for the period of military service.

C. If a member dies before completing payment for military service under this Chapter, a beneficiary or survivor has the right to pay the required contributions as set forth in R.S. 29:415, except that the applicable time limit within which payment must be made is that set forth in section 414(u) of the *Internal Revenue Code*. If the beneficiary or survivor chooses not to pay the member's contribution, the computation of death and survivor benefits shall be based on the actual service credit of the member, excluding his or her military service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:414, R.S. 29:415 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 43:1987 (October 2017).

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. Application Process for Voluntary Payroll Deduction

A. Application shall be made by the company, corporation, or organization which is the provider of coverage, product, service, or recipient of monies and shall be signed by two officers of the applicant company, corporation, or organization. The completed application shall be submitted to LASERS.

B. The following type providers of services shall be considered for approval:

1. the State Group Benefits program;

2. the Retired State Employees' Association;

3. general insurance companies and other providers that are included on the annual listing maintained by the Office of State Uniform Payroll;

4. credit unions formed for the primary purpose of serving state employees that have a payroll deduction for employees of the members' agencies;

5. other member or retiree associations approved by the board of trustees;

6. vendors receiving payment through voluntary deductions on the effective date of these rules; and

7. other insurance companies approved by the executive director.

C. Applicant shall designate a coordinator to act as primary contact with LASERS for resolution of invoicing, refund, and reconciliation problems and resolving claims problems for retirees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:1639 (August 2008), LR 44:2223 (December 2018).

§1103. Vendor Requirements

A. Authority for payroll deductions shall be governed by this Chapter. General insurance deduction vendors shall meet the following requirements.

1. Foreign companies shall:

a. have a current rating in A.M. Best of B+ or better, unless:

i. notwithstanding any other law, rule, or regulation to the contrary, and if they are in good standing with the Department of Insurance, and subject to the other applicable provisions of this Section, a foreign company which has participated in the Office of State Uniform Payroll deduction system for a period of at least ten years and has a rating in A.M. Best of B, may continue to market and sell insurance policies through payroll deduction until the beginning of the next open enrollment period following the four-year anniversary date from the date of the issuance of the B rating by A.M. Best, provided they have maintained a rating of B or better for the entire four-year period. Thereafter, in the event that the foreign insurer has maintained a rating of B by A.M. Best and that rating is increased from B to a B+ or better and they meet the other applicable requirements of this Section and other applicable rules and regulations, they may resume marketing and selling insurance through the payroll deduction system; or

ii. notwithstanding any other law, rule, or regulation to the contrary, if a foreign company has been

participating in the Office of State Uniform Payroll deduction system for a period of at least ten years, and they have a rating in A.M. Best of B, they may maintain and administer indefinitely those policies purchased through payroll deduction as long as they maintain a rating by A.M. Best of no less than a B, are in good standing with the Department of Insurance, and comply with other applicable rules, and regulations, and laws and the provisions of this Section;

b. have been doing business under the same name for not less than three years;

c. offer like product, service, or coverage to citizens of Louisiana;

d. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

2. Domestic companies shall:

a. have a current rating in A.M. Best of B or better, or if the company is of insufficient size to obtain a rating by A.M. Best, has posted a bond with the division of administration in the amount of:

i. $100,000, if the company is a member insurer of the Louisiana Life and Health Insurance Guaranty Association; or

ii. $250,000, if the company is not a member insurer of the Louisiana Life and Health Insurance Guaranty Association, or if the product for which the deductions are proposed is not covered under the Louisiana Life and Health Guaranty Association Act;

b. have been doing business under the same name for not less than three years;

c. provide like product, service, or coverage to citizens of Louisiana;

d. be in compliance with all procedural, accounting, and reporting requirements of all rules and requirements governing employee deductions.

3. Vendors offered through other state agencies or political subdivisions, if approved by the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 33:676 (April 2007), LR 34:1639 (August 2008), LR 35:2477 (November 2009).

§1105. Notification, Implementation and Transition

A. LASERS shall notify applicant whether applicant is approved as a vendor.

B. Vendors shall enroll retirees for a monthly deduction amount.

C. Participation shall be at least 30 or more retirees, if approved by the executive director.

D. If a vendor falls below the participation level approved by the executive director, LASERS has the right to discontinue the payroll deduction immediately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009).

§1107. Deduction Authorization

A. Vendors shall be responsible for obtaining and maintaining appropriate deduction authorizations from individual retirees. Copies shall be made available to LASERS upon request.

B. Any disclaimer, contract, or term of participation agreement between the retiree and the vendor or provider shall not be binding on LASERS.

C. A retiree shall have only one monthly deduction (which may cover more than one benefit) for a single vendor effective at any one time.

D. Vendor is responsible for submitting a computer file of monthly deductions to LASERS by the twelfth day of the month preceding the deduction using the electronic format and specifications established by LASERS. All deductions for a single vendor shall be submitted on one monthly file: exceptions must be approved on a case-by-case basis by the executive director.

E. A retiree may discontinue any voluntary payroll deduction amount by providing written notification of that intent to the vendor. Vendors shall remove these persons from the file.

F. A retiree cannot authorize total deductions which exceed the amount of the benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009), LR 44:2223 (December 2018).

§1111. Vendor Responsibilities

A. Vendors shall not be authorized to submit any deduction which was obtained from a retiree for the purpose of transmitting any part of that deduction to a third party.

B. The vendor is responsible for refunding any amounts deducted in error to the individual retiree.

C. Any information received from LASERS shall be handled in accordance with the Louisiana Public Records law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009).

§1113. LASERS' Responsibilities

A. LASERS shall be responsible for making the monthly deductions in the amount that are timely submitted by the vendor.

B. LASERS shall remit the amount deducted to the vendor and shall provide a listing of all exceptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009).

§1115. Reporting

A. Vendors shall report within 10 days of final approval any change in the name, address, or designated coordinator to LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), LR 35:2478 (November 2009), LR 44:2224 (December 2018).

§1119. Termination of Payroll Deduction

A. Unethical conduct or practices of the vendor shall result in the termination of deduction authority for that vendor.

B. Payroll deduction authority may be revoked for any vendor that is removed from the annual listing maintained by the Office of State Uniform Payroll.

C. Payroll deduction authority may be revoked for any vendor that fails to comply with requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996), 35:2478 (November 2009).

§1121. General Provisions

A. Payroll deduction authorization shall not be transferred.

B. Approval of an applicant in no way constitutes endorsement or certification of the applicant or vendor or its products or services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 18:1417 (December 1992), amended LR 22:373 (May 1996).

Chapter 13. Emergency Refunds

§1301. Conditions Giving Rise to an Emergency Refund

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

1. the refund results from the death of the member; or

2. the member has significant expenses for medical care for himself, spouse, or child; or

3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment. A document filed in the official legal proceeding for foreclosure or repossession or a notice of eviction shall be required as proof to qualify under this provision. Notices of repossession drafted in compliance with R.S. 6:966 may be reviewed by staff on a case-by-case basis.

B. The member shall provide a written request detailing the emergency situation and the executive director shall approve or disapprove the request based on this written request.

C. Emergency refunds are available on a one-time basis only. Once a member has taken advantage of this single opportunity and has received a refund under the terms of this Chapter, that member shall no longer be eligible for an emergency refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:1466 (August 2006), amended LR 46:49 (January 2020).

§1303. Procedure for an Emergency Refund

A. The member or beneficiary shall provide a copy of the death certificate, a doctor's statement of total and permanent disability, a copy of medical invoices, or copies of other pertinent documentation to qualify for the emergency refund. Outstanding bills must be payable prior to the date the individual would otherwise receive the refund, or other like economic hardship must be shown to be considered sufficient reason for declaring an emergency situation.

B. Upon receipt of the documentation and approval by the executive director, the retirement system shall issue the refund at the next scheduled date for issuing refund checks. The refund amount shall include all employee contributions received from the employing agency and posted to the individual's account. Any additional contributions received at a later date from the agency shall be refunded to the individual after they are received and posted to the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 537(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1305. Responsibility for Overpayment of a Refund

A. If the amount that is refunded is greater than the amount actually due the individual, the agency paying the contributions shall be responsible for recouping any overpayment from the individual who was overpaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 11:537(B).
HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1711 (December 1997).

Chapter 15. Purchases and Transfers of Service

§1501. Purchases and Transfers of Service; Calculations; Costs

A. The purchase of service on an actuarial basis and the transfer of service from other public retirement systems into LASERS requires an actuarial calculation by the system actuary.

B. The cost of this calculation shall be paid by the member requesting the calculation. Payment must be made before the request for the calculation will be forwarded to the actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:424, 11:446 and 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 32:265 (February 2006).

§1503. Transfers of Service; Other Requirements

A. In order to transfer service credit from other public retirement systems into LASERS, the person seeking such a transfer must be:

1. an active member contributing to the LASERS at the time they apply for the transfer; or

2. an active member of a public retirement system maintained primarily for officers and employees of the state of Louisiana, or any political subdivision thereof, or of any district, board, commission, or other agency of either, or any other such public entity who has been a member of such system for at least six months and who has membership credit in such system shall have the option of transferring all of his credit from such system he is currently contributing to or to the system in which he last contributed. However, membership in a public retirement system cannot be changed to another public retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:143 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 46:49 (January 2020).

Chapter 17. Purchases of Service by Reinstated Employees

§1701. Purchases of Service by Reinstated Employees

A. When an employee is reinstated to a position in state government by the Department of Civil Service or a court of law, the employee is entitled to receive retirement service credit for the period of time that is reinstated provided payment of employee and employer contributions, plus interest, is made to the retirement system within 60 days of the reinstatement.

B. If reinstated, the employee shall pay an amount equal to the current employee's contributions based on the earned compensation for the period of time that was reinstated. The employing agency shall pay the employer contributions that would have been due plus compound interest at the actuarial valuation rate for all contributions payable from the date the contribution was due until paid.

C. When a reinstated employee is entitled to back pay from the employing agency, the agency shall remit the employer and employee's contributions that would have been due if the employee had been employed during that time, plus interest. The agency shall also provide LASERS with a report of earnings on a monthly basis for the period for which the individual was reinstated.

D. If a member has received a refund of contributions after a wrongful termination, he must repay the refund not later than the sixtieth day following the first day the member returns to work after reinstatement is ordered for the member's retirement status and service credit to be fully restored.

E. Any costs to the retirement system associated with these procedures shall be paid by the employing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999).

§1703. Effect of Reinstatement

A. Employees reinstated into state government shall be entitled to purchase service credit as provided in this Chapter, and the employee shall be treated as if he was a member during this period of purchased service credit, except that the reinstated employee will not be entitled to partial repurchase provisions for the service credit that is reinstated through legal action.

B. The reinstated employee's date of hire prior to the wrongful termination shall be used for retirement purposes, if any contribution refund that the member received is repaid not later than the sixtieth day following the first day the member returns to work after reinstatement is ordered. If the member repays all or any portion of such contribution refund after the sixtieth day following the first day the member returns to work after reinstatement is ordered, the repayment shall be treated in the same manner as a payment for any

other refund and the date of hire for retirement purposes shall be the first day the member returns to work after reinstatement is ordered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999).

§1705. Service Credit for Dual Employment

A. Any active member who qualifies to purchase service credit under the provisions of R.S. 11:191.B may purchase the service credit to which he would have been entitled in the system had he been an active contributing member of the retirement system during the full term of his employment by paying to the system an amount that totally offsets the actuarial cost of the receipt of the service credit.

B. The employer for that employee may pay one-half of the actuarial cost of the receipt of the service credit, thereby reducing the member's cost to one-half of the actuarial cost of the service credit. If the employer pays one-half of the actuarial cost for one employee, it shall be obligated to pay one-half of the actuarial cost of all employees who qualify to purchase this service credit.

C. The full amount must be received by the system, whether the member is paying the full cost, or the employer is paying one-half and the member one-half, prior to any service credit being attributed to a member's account. The amount must be paid in a lump sum.

D. A fee of at least $75 (to be set by the system's actuary) must be paid to the system's actuary by the individual requesting the calculation. Payment must be made before the request for calculation will be forwarded to the actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§1709. Partial Repayment of Refund of Contributions

A. If a member elects to repay part of a refund, he must repay the contributions for the most recent service credit first. For example, if a member received a refund for service from January 1, 1991 through December 31, 1993, and elects to repay one year of service, he/she must repay the contributions for 1993 first.

B. Partial payments must be made in increments based on service within a calendar year with the most recent year(s) repaid first. Example: A member worked from June 1, 1990 through April 30, 1993 then received a refund. The refund may be repaid in the following order:

1. January 1, 1993 through April 30, 1993;
2. January 1 through December 31, 1992;
3. January 1 through December 31, 1991; then
4. June 1 through December 31, 1990.

C. If a member has both full time and part time service credit that was refunded, the years of full time service must be repaid first. When there is both full time and part time service within the calendar year(s), LASERS shall have the authority to determine the calendar year of service credit that must be repaid first. As a general rule, the year(s) with the most full time service must be repaid before the year(s) with more part time service.

D. Upon receipt of the partial payment, the service credit for the calendar year repaid will be restored to the member.

E. A member may receive three invoices in a 12-month period at no cost. Each additional invoice within the 12-month period will cost $75 each.

F. Interest at the actuarial rate will be calculated from the date of the refund was issued to the date of the repayment. Interest will be compounded on an annual basis.

G The partial repayment must be made in a single payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 25:2467 (December 1999), amended LR 29:2859 (December 2003).

Chapter 21. Credit for Part-Time Service and Service in Multiple Positions

§2101. Credit for Part-Time Service and Service in Multiple Positions

A. Members of the Louisiana State Employees' Retirement System shall receive service credit, up to a maximum of one year of service per calendar year, for all service which is rendered for an employer agency, as defined in R.S. 11:403(12), and which is state service, as defined in R.S. 11:403(28).

B. All compensation for such service, which meets the criteria of R.S. 11:403, shall be recognized by the system, and employer and employee contributions must be paid thereon.

C. Any employee who is part-time, seasonal, or temporary, as defined in 26 CFR 31:312(b)(7)-2, or in any successor regulation, shall not be or become a member of the system, except membership for these employees shall be mandatory if the employee has 10 or more years' creditable service in the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 23. Renunciation of Benefit

§2301. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Louisiana State Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, LASERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:446.E.

6. If the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. A renunciation must be made on a form provided by LASERS, and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by LASERS.

10. A person revoking or participating in renunciation of a benefit must hold LASERS harmless from such action.

11. A renunciation may not be used to terminate active participation in LASERS.

12. Amounts credited to a DROP account cannot be renounced.

13. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

14. Only those persons who have selected the maximum benefit or Option 1 under R.S. 11:441 may renounce their entire monthly benefit.

B. LASERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:452 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 33:112 (January 2007).

Chapter 25. Procedures for Processing Disability Applications

§2515. Report to the Board of Trustees

A. The applicants' names and disposition of applications shall be provided to the board in addition to the monthly retirement supplement for the board's ratification.

B. The board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1582 (September 2001).

§2517. Appointment of Physicians to the State Medical Disability Board

A. Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the executive director. Such appointments shall be subject to ratification by the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998), LR 27:1582 (September 2001).

Chapter 27. DROP Program

Subchapter A. Participation

§2701. Eligibility

A. Eligibility for DROP shall be determined under the provisions of Part IV, Chapter One of Title 11 of the Louisiana Revised Statutes of 1950 (R.S. 11:441 et seq.).

B. Act 1110 of 1995, effective January 1, 1996, implemented a "new" DROP program; however, a member who is eligible for retirement on or before December 31, 1995 will continue to be eligible to enter the "old" DROP at any time. The provisions of the "old" DROP remain unchanged except for the elimination of the one year waiting period. Members eligible for the "old" DROP may also choose to enter the "new" DROP, unless they have been eligible for ordinary retirement more than three years and 60 days. If they elect not to enter either DROP program, they may elect the initial benefit option.

1. The provisions of "use it or lose it" for annual leave, by action of the board of directors, will cease being applied to "old" DROP participants beginning January 1, 1996. Thereafter, all DROP participants will be able to convert accrued leave to retirement credits, or actuarially reduced lump sum payment for accumulated leave.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Subchapter B. "Old" DROP

§2703. Participation in Three-Year Program

A. Any eligible member entering DROP for the first time on or after July 1, 1993, may make a one time election to participate in DROP for a period not to exceed three years. Once specified, the period of participation may not be extended.

B. Any member in their initial DROP participation period between July 1, 1993, and September 1, 1993, who entered DROP prior to July 1, 1993 may extend their originally selected participation period by up to one additional year upon giving written notice to the retirement system.

C. Any member in their initial DROP participation period who entered DROP prior to July 1, 1993, and who elect after September 1, 1993, to extend their originally selected DROP participation period by up to one year may do so upon 30 days prior written notice to the retirement system.

D. Any member who has completed DROP participation prior to July 1, 1993, and who has remained in state service without a break, may reenter the DROP program for up to one additional year upon written notice to the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2705. Effects of Participation

A. When a person is in an extended DROP participation period, leave earned during that time can be converted to retirement credit if participation in DROP extends beyond January 1, 1996.

B. When a person is in an extended DROP participation period, interest shall not be credited to the DROP account.

C. When a member extends their DROP participation period, the monthly amount credited to the DROP account during the original participation period shall be the amount credited to the DROP account during the extended DROP participation period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Subchapter C. Withdrawal

§2711. Methods of Withdrawal

A. When a participant in the Deferred Retirement Option Plan terminates state employment, the amount accumulated in the participant's DROP account may be withdrawn in any of the following methods.

1. Lump Sum Withdrawal

a. The participant may withdraw the entire balance in the DROP account; or

b. receive a one-time lump sum amount specified by participant;

c. if a participant dies and the designated beneficiary is not entitled to a monthly retirement benefit, the DROP account must be withdrawn within 90 days after notification of the death.

2. Monthly Withdrawal. The participant may receive a check each month until all the funds in the account are disbursed. The participant choosing monthly withdrawal shall select one of the following methods:

a. the participant may establish an amount to be withdrawn on a monthly basis; or

b. the retirement system can determine a level amount to be paid monthly over the expected lifetime of the individual. This method would be similar to an annuity payment; or

c. payments spread over a 10-year period.

3. Annual Withdrawal—Amount Established by Participant. The participant may establish an amount to be withdrawn once each year. The payments shall be made in December of each year. Changes in the amount shall be

provided to LASERS, in writing, no later than November 15 of that year.

4. Delayed Withdrawal. The participant may choose not to withdraw the DROP account until some later date; however, the account must be disbursed within the time period shown in §2713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2465 (December 1999).

§2713. Time for Disbursement

A. The DROP account must be totally disbursed within the expected lifetime of the participant in accordance with federal laws. The expected lifetime is determined based on the age of the participant on the date of termination. All funds from the DROP account must be withdrawn in accordance with the Internal Revenue Services Guidelines.

B. Disbursements from the DROP accounts shall be made on the first day of each month; if the first is a weekend or holiday, the disbursement shall be made on the following workday.

C. When a retiree reaches age 72, mandatory annual distributions shall begin in accordance with IRS regulations. The amount of the distributions will be recalculated annually. The mandatory distribution is based on the retiree's age and DROP account balance using the table above.

D. Requested withdrawals from DROP accounts which would leave a balance in that account of $500 or less shall be processed as a request for disbursement of the entire balance. All such withdrawal requests shall result in the closing of the account. LASERS may, at its option, conduct audits to identify DROP accounts with a balance of $500 or less and may disburse the entire amount to the person in whose name the account exists or to their beneficiary after giving notice of at least 30 days prior to disbursement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 25:2466 (December 1999), LR 29:1121 (July 2003), LR 30:2079 (September 2004), LR 32:1070 (June 2006), LR 35:2476 (November 2009), LR 46:1695 (December 2020).

§2715. Interest

A. Interest shall not be credited to a participant's subaccount during the period of participation and shall be based on the balance of the account at the end of each month. All amounts which remain credited to the individual's subaccount after termination of participation in the plan, which is not transferred to a self-directed subaccount under R.S. 11:451.1, shall be credited with interest at the end of each plan year at a rate equal to the realized return on the system's portfolio for that plan year as certified by the system actuary in his actuarial report, less 1/2 of 1 percent.

B. Plan year shall mean fiscal year. The actual posting of interest shall not be performed until the system actuary's report is approved by the Public Retirement Systems Actuarial Committee.

C. Interest shall not be paid on funds transferring to the Self-Directed Plan. DROP participants who are vested under LAC 58:I.4103 who choose to transfer their funds to the SDP shall not be paid DROP interest under this Section beginning on the date LASERS receives the participant's request for transfer. DROP participants who were not vested under LAC 58:I.4103 shall not be paid DROP interest under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 31:946 (April 2005), LR 32:1070 (June 2006), LR 35:2476 (November 2009).

§2717. Changes in Withdrawal

A. The type of withdrawal or the amount may be changed upon written notice. Requests for change received in the office of LASERS by the fifteenth of one month shall be effective the following month.

B. The participant must indicate whether federal income taxes should be withheld from the amount disbursed. The tax instructions must be provided by the participant before a disbursement can be made.

C. The forms for selecting the method of disbursement and the tax instructions shall be provided to the participant at the time of termination, or upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Subchapter D. "New" DROP

Editor's Note: To the extent that the above provisions are not impacted by the following Sections, they shall apply to the new DROP. Any of the above provisions which conflict with the following provisions under the new DROP, the following provisions shall control.

§2719. Eligibility

A. Members who become eligible for retirement on or after January 1, 1996 will only be eligible for the new DROP. Members who were eligible for retirement on or prior to December 31, 1995 will have the option of joining either DROP, unless they have been eligible for regular retirement in excess of three years and 60 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2721. Participation in New DROP

A. A member will be eligible for DROP as soon as he is eligible for retirement.

B. DROP participation will be limited to three years.

C. The member must enter DROP within a "window" of time. If he does not enter DROP within the window, he loses his right to enter DROP.

D. The "window" begins 60 calendar days after his earliest date of eligibility for retirement and continues for three years and 60 days from the date of eligibility. In effect, the window sets an ending date for DROP participation. Eligibility to participate in DROP must end no later than three years and 60 days after the first retirement eligibility date. A member may enter DROP on the date he is eligible for regular retirement, without waiting 60 days to start DROP; however, he may only participate in DROP for three years.

E. If a member waits to enter DROP at some point after eligibility, the length of time he may participate in DROP is reduced. For example, if he enters DROP one year after first becoming eligible, he can stay in DROP for two years and 60 days.

F. The participant may not end DROP prior to the stated ending date unless he terminates employment. This is a change from the old DROP. Also, the stated participation period cannot be extended.

G The participant may elect to continue working after DROP participation. The calculation of the retirement benefit will be the same as in the old DROP program, except for the conversion of unused leave.

H. The amount of unused sick and annual leave at the date of termination can be converted to retirement credit, including the leave that was earned during the DROP participation period. If the participant terminates at the end of DROP or works less than three years after DROP, the benefit based on the leave conversion will be calculated using the final average compensation at the beginning of DROP participation. If the participant works more than three years after DROP participation, the benefit based on the leave conversion will be calculated using the final average compensation for the period of employment after DROP.

I. The participant may choose to receive the actuarially reduced lump sum payment for unused leave in lieu of converting it to retirement credit.

J. Anyone who elects to participate in DROP cannot elect the initial benefit option (lump sum provision).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

§2723. Initial Benefit Option

A. This option will be available on January 1, 1996. Only members who have not participated in DROP can select this option. Disability retirees cannot select this option.

B. This option may be selected at the time of retirement and will pay the retiree a lump sum amount at the time of retirement, and the future monthly retirement benefit will be reduced on an actuarial basis.

C. The retiree must select the retirement option first. He cannot select Option 1. He can then elect to receive part of his future retirement benefits in an actuarially reduced lump sum payment. The value of the lump sum cannot exceed 36 months of the maximum monthly retirement benefit. The retiree may elect to receive the maximum lump sum amount or any smaller amount.

D. The retiree may also elect to receive unused leave in a lump sum payment rather than converting it to retirement credit. This election must be made by the retiree before the initial benefit option can be calculated.

E. The monthly retirement benefit of both the retiree and beneficiary will be actuarially reduced to offset the cost of the initial benefit. If the retiree retires under the special provisions for wildlife agents or judges and he selects the initial benefit option, his monthly benefit will also be actuarially reduced.

F. The retiree can receive the "initial benefit" in a lump sum payment, or it can be deposited in an account like the DROP accounts. The interest earnings and withdrawals will be the same as for DROP accounts. The main difference is that it will be created at the time of retirement with a lump sum instead of accumulated over a DROP participation period. The account will begin accumulating interest at the time it is set up.

G If a retiree selects the initial benefit and later changes, the retirement option to the maximum due to divorce or death of the beneficiary, the maximum benefit will be actuarially reduced at that time.

H. A retiree who elects this option and later returns to work will be governed by the same rehired retiree provisions as other retirees.

I. Future COLAs will be based on the amount of the monthly reduced benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996).

Chapter 29. Spousal Consent

§2901. Spousal Consent to Retirement Option

A. If a member is married and wishes to elect to retire under either the maximum plan, Option I, or else choose from Options II, III or IV(B) while naming someone other than his spouse as his beneficiary, he must obtain the consent of his spouse in writing on a form provided by LASERS executed before a notary public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:446, R.S. 11:477 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 33:2469 (November 2007).

§2903. Instances Where Spousal Consent Is Not Required

A. The following list sets out those instances where spousal consent is not necessary and will not be required:

1. the spouses are divorced, in which case LASERS needs a certified copy of a judgment of divorce;

2. the spouse is legally incompetent to give consent, in which case the spouse's legal guardian may give consent, even if the guardian is the member, in which case LASERS needs a certified copy of the court order appointing the guardian;

3. the spouse has abandoned the member, in which case the following shall be required:

a. a certificate by the local newspaper certifying that a legal notice has been run for at least three days requesting information from anyone knowing the whereabouts of the spouse; and

b. a notarized affidavit signed by the member stating that the spouse has abandoned him or her and outlining the steps that the member has taken to locate the spouse and obtain his or her signature; or

c. a certified copy of a court order indicating that the spouse is an absentee or has abandoned the member;

4. the spouses have entered into a matrimonial agreement establishing a regime of separation of property pursuant to La. C.C. Art. 2328 between them which remains in effect at the time of retirement, in which case LASERS needs:

a. a certified copy of the agreement; and

b. a notarized affidavit signed by the spouses affirming the existence of a matrimonial agreement as required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 26:1490 (July 2000), LR 34:1048 (June 2008).

Chapter 31. Excess Benefit Arrangement

§3101. Participation

A. All retired members and beneficiaries of the system whose retirement or survivor or beneficiary benefits from the system for a plan year have been limited by IRC §415 are participants in this plan. Participation in the plan is determined for each plan year. Participation in the plan will cease for any plan year in which the retirement benefit of a member of the system or a survivor or beneficiary is not limited by IRC §415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1490 (July 2000).

§3103. Benefit

A. A participant in the plan shall receive a monthly benefit equal to the difference between the participant's monthly retirement benefit otherwise payable from the system prior to any reduction or limitation of IRC §415 and the actual monthly retirement benefit payable from the system as limited by IRC §415. The monthly benefit shall be subject to withholding for any applicable income or employment taxes. The form of the benefit paid to a participant from the plan shall be the same as otherwise selected by the participant and payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1490 (July 2000).

§3105. Contributions

A. The system shall determine the required contribution to pay plan benefits for each plan year. The required contribution for each plan year shall be the total amount of benefits payable to all participants and their survivors or beneficiaries and such amount as determined by the system to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

B. The required contributions as determined in the preceding Subsection shall be paid into the plan fund from an allocation of the employer contributions paid to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3107. Excess Plan Fund

A. Contributions to the plan shall be deposited on a monthly basis in a separate fund established and administered by the system. This fund is intended to be exempt from federal income tax under IRC §§115 and 415(m)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3109. Funding Assets

A. The benefit liabilities of the plan shall be funded on a month to month basis. The fund established hereunder shall not be accumulated to pay benefits payable in future months. Any assets of the fund not used for paying benefits for a current month shall be used, as determined by the system, for the payment of administrative expenses of the plan for

future months or paid to the system as an additional employer contribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3111. Non-Assignability of Benefits

A. The benefits payable under the plan may not be assigned or alienated by a participant, except as otherwise permitted for benefits payable by the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3113. Plan Administration

A. The system shall have the authority to administer the plan as provided at R.S. 11:454.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3115. Retirement Benefit

A. Any and all payments made pursuant to this plan shall be considered part of a retirement benefit as provided for any member, survivor or beneficiary of the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3117. DROP Benefits

A. The DROP benefit of any member may not exceed the annual benefit authorized by Section 415(b) of the *Internal Revenue Code*. For purposes of determining whether a member's benefit exceeds the limitations of this Subsection, the following shall apply:

1. Adjustment if benefit not a straight life annuity.

a. If the form of benefit is other than a straight life annuity, such benefit shall be adjusted actuarially to the equivalent of a straight life annuity to determine whether the limitations set forth in this Subsection are met.

b. For the purposes of this Subsection, no adjustment shall be taken into account for any ancillary benefit which is not directly related to retirement income benefits.

2. Adjustment if benefit commences before age 62.

a. If the benefit distribution commences before age 62, the actual retirement benefit shall not exceed the adjusted dollar limitation. The adjusted dollar limitation shall be the equivalent, determined in a manner consistent with reduction of benefits for early retirement under Section 415(b)(2)(E) of the *Internal Revenue Code*, of $160,000, as of January 1, 2002, adjusted annually pursuant to Section 415(d) of the *Internal Revenue Code*, commencing at age 62. For purposes of this adjustment, survivor benefits, that portion of a joint and survivor annuity which is the survivor benefit, and any other ancillary benefits shall not be taken into account.

b. No adjustment shall be required under this Subsection if the member is a "qualified participant" as that term is defined in Section 415(b)(2)(H) of the *Internal Revenue Code*.

c. No adjustment shall be required under this Subsection if the benefit is payable due to the member's disability or preretirement death.

3. If the benefit distribution commences after age 65, the adjusted dollar limitation shall be the equivalent, determined in a manner consistent with the adjustments under Section 415(b)(2)(E) of the *Internal Revenue Code*, of $160,000, as of January 1, 2002, adjusted annually pursuant to Section 415(d) of the *Internal Revenue Code*, commencing at age 65. For purposes of this adjustment, survivor benefits, that portion of a joint and survivor annuity which is the survivor benefit, and any other ancillary benefits shall not be taken into account.

B. The maximum retirement benefit payable under this Section to any member who has completed less than 10 years of credited service shall be the number determined under Subsection A multiplied by a fraction, the numerator of which shall be the number of years of service, and the denominator of which shall be 10.

C. Notwithstanding the foregoing, the benefit payable to a member shall not be deemed to exceed the limits of Subsection A if the total benefits payable to a member under all defined benefit plans maintained by the state, its agencies, or its political subdivisions do not exceed $10,000 and the state, its agencies, or its political subdivisions have never maintained a defined contribution plan in which the member has participated.

D. Any benefit that, as a result of an election made under R.S. 11:447(A), would exceed the limitations on benefits imposed by Section 415(b) of the *Internal Revenue Code* shall be paid into the excess benefit arrangement established under R.S. 11:454.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 36:2050 (September 2010).

Chapter 35. Optional Retirement Plan

§3501. Plan Year

A. The Plan Year for the Optional Retirement Plan (ORP) shall be July 1 through June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3503. Participation

A. The following state employees shall be eligible to make an irrevocable election to participate in the optional retirement plan:

1. any unclassified state employee who is appointed by a statewide elected official and whose appointment is subject to confirmation by the Louisiana Senate;

2. any unclassified state employee who is a member of the immediate staff of any such employee described in Paragraph 1 of this Section;

3. the chief executive officer of the State Employee Group Benefits Program;

4. any member of the executive career service establishment by the State Civil Service Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000), amended LR 29:1121 (July 2003).

§3507. Employee Contributions

A. Each participant in the ORP shall contribute monthly the same amount that a regular member would have contributed under R.S. 11:62(5)(e). This amount shall be forwarded to the ORP provider, less an administrative cost that shall be established by LASERS. The initial administrative cost shall be set at 1 percent of employee earnings but may be adjusted annually in writing to reflect the actual cost incurred by LASERS to perform this function, but shall not exceed 1 percent without an amendment to this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3509. Employer Contributions

A. Each employer agency shall contribute to LASERS on behalf of each participant in the ORP the same amount that would have been contributed to the defined benefit plan. LASERS shall pay over to the ORP provider an amount equal to the employer's portion of the normal cost contributions as set forth in the actuarial valuation of the retirement system. LASERS shall maintain that portion of the employer's contribution, which applies to the unfunded accrued liability, which exceeds the employer's portion of the normal cost contribution. LASERS may also retain an additional portion of the employer contributions for any adverse actuarial impact as a result of employees participating in the ORP in accordance with R.S. 11:502.3. B.(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1491 (July 2000).

§3511. ORP Provider

A. The system shall provide no more than three providers, selected by a competitive process, for participants to utilize in selecting investment options for the employee and employer contributions that are provided for by the preceding Sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3513. Investment Options

A. The investment options available to participants shall be those as established by the ORP provider and selected by the ORP participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3515. Benefit Obligations

A. All benefits payable to participants under the ORP shall be the sole obligation of the ORP provider to which contributions are made, and shall not be the obligation of LASERS. Payments to participants or their beneficiaries shall be made by the ORP provider and not LASERS in accordance with the contracts approved for use in the ORP. Participants in the ORP shall not be entitled to any benefits under the defined benefit plan, and once a choice is made by a participant to participate in the ORP, that individual will be ineligible to participate in the defined benefit plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

§3517. Distribution

A. Distribution from the ORP to participants shall only be made after termination of employment with the state of Louisiana in accordance with applicable *Internal Revenue Code* provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 26:1492 (July 2000).

Chapter 37. Leave Conversion to Retirement Credit or Cash Payment

§3701. Conversion of Leave to Retirement Credit

A. All annual and sick leave certified by the employee's employing agency to be accrued in accordance with the leave accrual rates established by the Department of State Civil Service and for which payment cannot be made in accordance with law at the time of retirement shall be credited to the employee and may be converted to retirement credit in accordance with R.S. 11:424.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:1122 (July 2003).

§3703. Lump Sum Payment of Leave

A. An employee, in lieu of conversion of leave to retirement credit, may request in writing that he be paid the actuarial value of such leave, as determined by the retirement system's actuary, in a lump sum cash payment. The employee shall be paid the actuarial value of the conversion of leave to cash. This lump sum cash payment shall be paid to the employee on the first of the month after all pertinent documentation is received from the employee's employing agency needed to finalize the employee's retirement benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:1122 (July 2003).

§3705. Tax Liability

A. The employee requesting the lump sum cash conversion of leave shall be solely responsible for any tax consequences of this decision, and the employee must acquire any tax advice from a private source (CPA or tax attorney) as LASERS shall not be responsible for any tax liability that may impact the employee as a result of the decision to take a lump sum cash distribution of leave in lieu of converting leave to retirement credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 29:1122 (July 2003).

Chapter 41. Self-Directed Plan

§4101. SDP Provider

A. System shall procure a single provider, selected by a competitive process, for participants in the Self-Directed Plan ("SDP") to utilize in providing investment options for the deposits made during the accumulation period in the Deferred Retirement Option Plan ("DROP") or funds acquired through the Initial Benefit Option ("IBO"). The investment options shall not be available to the participants until the DROP funds are transferred to the SDP provider at the end of the accumulation period, or until after the IBO funds are so transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1306 (June 2004).

§4103. Persons Vesting for DROP Prior to January 1, 2004

A. Persons who became eligible for regular retirement prior to January 1, 2004 are eligible for participation in the SDP. Those persons may make an irrevocable election to transfer their DROP funds into the SDP. The DROP or IBO participants electing to transfer their funds into the SDP must transfer their entire DROP or IBO balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1306 (June 2004).

§4105. Eligibility for Transfer of Funds into SDP

A. The only funds which may be transferred into the SDP are LASERS DROP or IBO funds. Transfers or rollovers from other sources shall not be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4107. Rollovers Out of SDP to Other Providers

A. At all times after becoming eligible to withdraw funds from the SDP, DROP participants may elect to rollover funds to eligible providers. Such rollovers shall be subject to applicable federal laws and the terms of the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4109. Right to Recover Overpayments

A. In the event of overpayment of funds are made by LASERS, then LASERS retains the ability at all times to recall funds from member at provider or to reduce future benefits pursuant to R.S. 11:192 to recover any such overpayment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4111. Time to Transfer Funds

A. Except in emergency circumstances as determined by the executive director:

1. LASERS shall forward the entire deposit balance of a participant to the third party administrator within 10 working days from the end of the DROP accumulation period. LASERS may supplement or otherwise correct balances forwarded in those instances where there are errors, missing documents or incomplete reports submitted by agencies reporting earnings for the participant;

2. for participants in the Initial Benefit Option ("IBO") or for those DROP participants whose accumulation period is less than six months, LASERS shall transfer 80 percent of the DROP/IBO balance within 45 days from the date of initial transfer into the SDP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004), amended LR 32:1070 (June 2006).

§4113. Spousal Consent

A. LASERS may halt the processing of a participant's request to enter the SDP until any spousal consent form required by law or proof of divorce has been presented to the system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4115. Completion of Notification Form

A. All DROP participants shall complete and submit a form (#9-2 or #9-2a) to inform LASERS that they are ending the accumulation period. This form shall be submitted at least 30 days prior to that date. Failure to submit this form could result in delaying access to DROP funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4117. Distributions

A. Distributions shall be in accordance with the provisions of Title 58, Part I, Chapter 27 of the Louisiana Administrative Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4119. No In-Service Distribution

A. Distributions prior to the date of termination from employment with the state of Louisiana are strictly prohibited in accordance with applicable *Internal Revenue Code* Provisions. The selected provider shall not make a distribution without a verification of termination from LASERS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4121. Civil Service Reinstatement

A. DROP participants who have been removed from state employment, then reinstated pursuant to a ruling by the Civil Service board, shall immediately notify LASERS in writing of their reinstatement, along with a projected date of retirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4123. Beneficiary

A. Each participant shall initially designate a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing a written notice on a form approved by LASERS. If no such designation is in effect at the time of participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4125. Investment Options

A. LASERS shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any event, it shall be the sole responsibility of LASERS to ensure that all investment options offered under the plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. In the absence of a written directive from the participant, the provider shall automatically invest the participant's DROP funds in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing by the participant. LASERS shall not be responsible for the propriety of any directed investment.

C. LASERS may, from time to time, change the investment options under the plan. If LASERS eliminates a certain investment option, all participants who had chosen that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of LASERS. The participants shall have no right to require

LASERS to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by LASERS or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1307 (June 2004).

§4127. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment options established as part of the overall SDP, unless otherwise specified by LASERS. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the SDP.

B. Each participant shall designate on the proper form or via website or telephone direction the investment that shall be used to determine the income to be accrued on amounts deposited. If the investment chosen by the participant experiences a gain, the participant's benefits under the SDP likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under such investment, the participant's benefits under the SDP likewise shall reflect such loss or charge for that period.

C. Neither the state of Louisiana, LASERS, the administrator, nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4129. Distributions from the Plan

A. The payment of benefits in accordance with the terms of the plan may be made by the trustee, or by any custodian or other person so authorized by LASERS to make such distribution. Neither LASERS, the trustee nor any other person shall be liable with respect to any distribution from the plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4131. Domestic Relations Orders

A. In all instances wherein a person participating in the SDP is a party to a Domestic Relations Order ("DRO"), properly worded and approved by LASERS, and such DRO is to divide DROP funds with the participant's former spouse, LASERS shall establish a means whereby the former spouse may choose the investment options for his or her portion of the SDP. Until such time as the portion belonging to the former spouse is placed in a separate SDP account in that person's name, those funds shall remain in a conservative fixed income investment vehicle within the SDP such as a stable value fund.

B. The selection of investment options shall be in accordance with §4125 of this Chapter.

C. Withdrawals from the SDP by either the member spouse (under whom all service credit accumulated) or the former spouse are prohibited until such time as the member spouse terminates state employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:451.4 and 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004), amended LR 33:1150 (June 2007).

§4133. Disclaimer

A. LASERS makes no endorsement, guarantee or any other representation and shall not be liable to the plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the plan, or any other purpose) of any investment option in which amounts deferred under the plan are actually invested; or

2. the tax consequences of the plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 30:1308 (June 2004).

§4135. No DROP Interest

A. Participants in the SDP shall not receive interest paid by LASERS on traditional DROP/IBO accounts under the provisions of LAC 58:I.2715.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:511 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 32:1070 (June 2006).

Chapter 43. Actuarial Calculations

§4301. Charges for Actuarial Calculations

A. The system shall collect a fee of $150 from those persons requesting certain actuarial calculations which must

be obtained from the actuarial firm with whom LASERS contracts actuarial services. Except as otherwise provided in R.S. 11:446.E, the fee must be payable to LASERS and will be forwarded to the actuarial firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 32:265 (February 2006).

Chapter 45. Effects of Act 75 of the 2005 Regular Session

§4501. Members Affected

A. This Chapter concerns those members of LASERS affected by Act 75 of the 2005 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:113 (January 2007).

§4503. Vesting Because of Prior State Employment

A. Members whose first employment making them eligible for membership in the system began on or before June 30, 2006 and who subsequent to that date cease such employment shall remain vested under the retirement eligibility provisions existing on that date, but only so long as they do not receive a refund of their accumulated employee contributions on or after July 1, 2006.

B. Upon application for and acceptance of a refund of accumulated contributions, all rights in the system are cancelled. For the purposes of this Section, a refund shall be considered accepted by the member upon the cashing or negotiating of a check or deposit by electronic funds transfer of an amount representing the bulk of the employee contributions deposited in his or her LASERS account based upon the period of their employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the State Employees' Retirement System, LR 33:113 (January 2007).

Title 58
RETIREMENT
Part III. Teachers' Retirement System of Louisiana

Chapter 1. General Provisions

§101. Mandatory Submission of Monthly Salaries and Contributions Reports, Contributions Corrections, Prior Years Certification/ Corrections of Member Data and (RET) Annual Salary Files

A. Monthly Salaries and Contributions Reports. Each month all employers shall certify to the Teachers' Retirement System of Louisiana (TRSL) Board of Trustees, by means of file transfer protocol or by secure on-line web based reporting, the amounts of each employee's actual salary, full-time salary, and the amounts of contribution deductions from the employee's actual salary to be paid to the annuity savings fund and then credited to the individual accounts of the employee from whose compensation the deductions were made. All file transfer protocol and web-based reporting formats must be in compliance with criteria established by TRSL and transferred in the manner as required by TRSL. All certified monthly salaries and contributions reports must be submitted by the fifteenth day of the month following the month covered by the report.

1. All employers reporting 100 or fewer employees must submit monthly salaries and contributions reports by file transfer protocol, by direct file upload submission via the internet or manually through TRSL's secure on-line web-based inquiry system.

2. All other employers must submit monthly salaries and contributions reports by file transfer protocol or by direct file upload submission via the internet through TRSL's secure on-line web-based inquiry system.

B. On-line Contributions Corrections of Current/Open Year Reported Member Data

1. All employers must submit On-line Contributions Corrections for the current/open fiscal year for any member data updates/corrections to the reported information on the Monthly Salaries and Contributions Reports or previous contribution corrections using TRSL's secure on-line web-based inquiry system. This includes any unreported data not included in the Monthly Salaries and Contributions Reports.

C. On-line Prior Years Certifications/Corrections of Previous/Closed Years Reported Member Data.

1. Member data previously submitted, or unsubmitted, for any closed fiscal year by employers through the Monthly Salaries and Contributions Reports or by On-line Contributions Corrections determined to be inaccurate, questionable or in need of correction by TRSL must be corrected or certified as correct by the employer.

2. All employers must submit Prior Year Certifications/Corrections (with certain exceptions as provided for in C. 3) using TRSL's secure on-line web-based inquiry system. Data that is to be certified/corrected via the secure on-line web based inquiry system are as follows:

a. full-time rate of pay only corrections;

b. actual earnings and contribution corrections;

c. service credit;

d. identified "questionable year" data.

3. Employers who do not have on-line access or employers who have data that meets TRSL's definition of "Unusual", must certify/correct the data by submitting a written statement to TRSL signed by an authorized representative of the employer. For purposes of this Paragraph, "Unusual" shall mean restored service credit not listed on a member's account history, interest balances pre-dating June 30, 1971, dual employment prior to fiscal year 1983, refunded service credit not listed on a member's account history, and instances of substitute, summer school, or other earnings that fall outside of a typical contract.

D. Electronic Reporting of (RET) Annual Salary Files. Employers shall submit to TRSL each year by August 15th the (RET) annual salary file, which shall include all payees paid by the employer, including payroll, accounts payable, and 1099 payments. This file shall be in the format and transferred as required by TRSL.

E. Auditing of Records. Employers shall submit all records requested by TRSL for audit purposes to verify any data previously submitted to TRSL under this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998), amended LR 33:1151 (June 2007), effective July 1, 2007, amended LR 34:1048 (June 2008), effective July 1, 2008, amended LR 47:1539 (October 2021).

§103. Rulemaking Procedures and Commentary

A. All rules of the board shall be adopted, amended or repealed in accordance with the Administrative Procedure Act.

B. The board, on its own motion or in response to the petition of any interested person, may request the adoption, amendment, or repeal of a rule pursuant to R.S. 49:953(C).

C. Request by an interested person shall be made on an approved form, which may be obtained from the Teachers'

Retirement System of Louisiana or upon request to the director.

1. Such petition shall be in writing; and

a. clearly state that it is a petition for adoption, amendment or repeal of a rule;

b. state the name, address, telephone number, and e-mail address of its author;

c. be signed and dated by its author;

d. contain a brief description stating:

i. whether the petition is requesting the adoption, amendment or repeal of a rule;

ii. the need for the adoption, amendment or repeal of the proposed rule;

iii. the specific citation of any legal authority purporting to authorize the adoption, amendment or repeal of the proposed rule, if known; and

iv. the fiscal impact of the adoption, amendment or repeal of the proposed rule, if known.

e. state the reasons or grounds for the proposed adoption, amendment or repeal;

f. contain proposed wording, content or description of the suggested language of a newly proposed rule and/or the suggested language of a proposed amendment to an existing rule;

i. A petition for the repeal of an existing rule shall cite the rule to be repealed. The interested person may attach a copy of the rule with a strike through of all portions proposed to be repealed.

g. contain specific citation to any statute that specifically relates to the content of the requested rule change, if known; and

h. include any data, views or arguments in support of the rule's adoption, amendment, or repeal.

2. The petition for a rule change shall be addressed to the director and shall be mailed or hand delivered to Teachers' Retirement System of Louisiana, 8401 United Plaza Blvd., Suite 300, Baton Rouge, LA 70809.

3. The director retains sole discretion to grant, deny or defer a petition in whole or in part.

a. The director will consider the petition within 90 days after receipt.

i. The director may solicit the petitioner for further information regarding the request. If further information is sought, the ninety day period will commence from the date further information is received or 90 days from the date further information is requested if no response is made by the petitioner.

b. The determination of the director will be stated in writing and mailed, via usual means to the petitioner.

c. If the petitioner is not satisfied with the determination of the director, the petitioner may request a reconsideration within 30 days.

d. The director will consider the petition for reconsideration within 90 days after receipt.

e. The determination of the director regarding the reconsideration will be stated in writing and mailed, via usual means to the petitioner.

f. If the petitioner is not satisfied with the determination of the director, the petitioner may request an appeal to the board within 30 days.

i. The board will consider the appeal within 90 days after receipt.

ii. The board may defer the ruling on a petition to review the petition further or gather facts related to the petition.

iii. The board retains the discretion to grant or deny the petitioner a hearing.

iv. The determination of the board will be stated in writing and mailed, via usual means to the petitioner.

v. All determinations of the board are final and not appealable.

4. Nothing herein shall be construed to require the director or the board, in granting a petition of adoption, amendment or repeal of a rule, to employ the specific language or format requested by the petitioner.

D. The agency shall conduct a public hearing, at least once every six years, for the purpose of allowing interested persons the opportunity to comment on any rule believed to be contrary to law, outdated, unnecessary, overly complex or burdensome in accordance with R.S. 49:953(C).

1. Written comments by interested persons shall be in the same format as prescribed by Subsection C of this Section and shall be addressed to the director and mailed or hand delivered to Teachers' Retirement System of Louisiana, 8401 United Plaza Blvd., Suite 300, Baton Rouge, LA 70809.

2. The director shall appoint a committee of agency personnel to conduct the public hearing.

a. The committee will submit to the director, within 30 days:

i. the written submission by the interested person;

ii. any statement by the agency explaining the basis and/or rationale for the rule in question; and

iii. any data or evidence by the agency relating to the rule.

b. The director will consider the submission within 90 days after receipt.

i. The director may solicit the petitioner for further information regarding the request. If further

information is sought, the 90-day period will commence from the date further information is received or 90 days from the date further information is requested if no response is made by the petitioner.

c. The determination of the director will be stated in writing and mailed, via usual means to the petitioner.

d. If the petitioner is not satisfied with the determination of the director, the petitioner may request a reconsideration within 30 days.

e. The director will consider the petition for reconsideration within 90 days after receipt.

f. The determination of the director regarding the reconsideration will be stated in writing and mailed, via usual means to the petitioner.

g. If the petitioner is not satisfied with the determination of the director, the petitioner shall request an appeal to the board within 30 days.

i. The board will consider the appeal within 90 days after receipt.

ii. The board may defer the ruling on a petition to review the petition further or gather facts related to the petition.

iii. The board retains the discretion to grant or deny the petitioner a hearing.

iv. The determination of the board will be stated in writing and mailed, via usual means to the petitioner.

v. All determinations of the board are final and not appealable.

3. Nothing herein shall be construed to require the board, in granting a petition of adoption, amendment or repeal of a rule, to employ the specific language or format requested by the petitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 826 and 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 45:762 (June 2019).

Chapter 2.Earnable Compensation Accounts

§201. Earnable Compensation Accounts

A. Earnable compensation shall not include compensation paid to an active member or to an inactive member of Teachers' Retirement System of Louisiana (TRSL) if the compensation is paid by a secondary employer and is reported to the Internal Revenue Service (IRS) on a Form 1099, but only if both the following occur.

1. The individual contract is for $1,000 or less, and a Form 1099 is issued.

2. The cumulative amount of the Form 1099 payments issued by a single secondary employer to that member does not exceed $15,000 in a fiscal year.

B. If an individual contract is for more than $1,000, then that entire payment is earnable compensation subject to TRSL employer and employee contributions.

C. If the cumulative amount of the Form 1099 payments issued by a single secondary employer to that member exceeds $15,000 in a fiscal year, then all Form 1099 payments in excess of $15,000 in that TRSL fiscal year are earnable compensation subject to TRSL employer and employee contributions.

NOTE: A secondary employer is one who does not report W-2 earnings on this member.

D. Earnable compensation shall include any and all compensation paid to a retiree of this system by a TRSL-covered employer regardless of IRS reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(10).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 30:273 (February 2004).

Chapter 3.Charter Schools

§301. Definitions

A. Whenever used in this chapter, each of the following terms has the meaning stated below.

Participating Charter School—a charter school whose approved charter provides for membership in the Teachers' Retirement System of Louisiana in accordance with R.S. 17:3997.

School-Based Employee—an employee assigned to work solely for a participating charter school.

School-Based Services—services performed at a participating charter school or related to a student or students enrolled in a participating charter school.

System—the Teachers' Retirement System of Louisiana

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 44:2224 (December 2018).

§303. Membership

A. For a nonprofit corporation operating multiple approved charter schools in the state with at least one participating charter school, but where not all of the nonprofit corporation's approved charter schools in the state are participating charter schools, system membership of employees who are assigned to work (for all or part of their time) at a participating charter school shall be determined as follows.

1. An employee assigned to work as a school-based employee shall be deemed to be employed in a public elementary or secondary school in the state for purposes of eligibility for any and all retirement benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school.

2. An employee who is not a school-based employee, but who performs school-based services shall be deemed to be employed in a public elementary or secondary school in the state for purposes of eligibility for any and all retirement benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school, provided system membership is not prohibited by R.S. 11:162.

a. When applying the provisions of R.S. 11:162, the number of hours the employee performs school-based services at the participating charter school or schools, as applicable, shall be used to determine the nature of employment with respect to a participating charter school or schools.

b. If system membership is not prohibited by R.S. 11:162, all earnable compensation attributable to the employee's performance of school-based services at the participating charter school or schools shall be reported to the system in accordance with applicable law.

3. An employee who is not a school-based employee and who does not perform school-based services shall not be eligible for system membership.

B. Notwithstanding the provisions of Subsection A, if all of the approved charters in the state held by a nonprofit corporation are participating charter schools, the employees of the nonprofit corporation who are employed for the purposes of operating the charter schools shall be deemed to be employed in a public elementary or secondary school in the state for purposes of eligibility for any and all retirement benefits which would otherwise accrue under state law to such an employee in any other elementary or secondary school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 44:2224 (December 2018).

Chapter 4. Purchase of Service Credit

§401. Purchase of Service Credit for Involuntary Furlough or Leave without Pay (LWOP) Due to Gubernatorially Declared Disaster/Emergency

A. General Provisions. If a TRSL member is on involuntary furlough or LWOP anytime during the period of August 29, 2005 through June 30, 2006, due to a gubernatorially declared disaster or emergency, he may purchase service and salary credit for each day of service he was on involuntary furlough or LWOP during this period under this provision if such service is not credited to his account.

1. TRSL members eligible to purchase service and salary credit under this rule must make application to TRSL prior to remitting any funds.

2. TRSL must receive certification from the member's employer as follows:

a. the member was or is on involuntary furlough or on LWOP due to a gubernatorially declared disaster or emergency;

b. the period of time during which the member was or is on involuntary furlough or LWOP due to a gubernatorially declared disaster or emergency; and

c. the member's full time salary as of August 29, 2005.

3. Invoices calculated under this provision will include interest charges at 15 day intervals should the payment become delinquent in accordance with R.S. 11:281.

4. Monthly payments must be paid after the close of month being purchased. For example: payments due for the month of February 2006 must be paid after February 28, 2006.

5. Payments to purchase service and salary credit cannot be made in advance. For example, an invoice issued in December 2005 for the January 2006's service and salary credit cannot be paid in December 2005.

6. DROP and Active-DROP members are not allowed to purchase service credit in accordance with R.S. 11:728(A).

7. Members may purchase all credit or partial credit while on involuntary furlough or LWOP.

B. Methods of Payment

1. Members may make payment on a month-by-month basis or make a lump sum payment.

2. Payments may be in the form of a direct payment from the member or a direct trustee-to-trustee transfer from a qualified plan or IRA.

3. Should a member elect to make payments through his employer, the employer is required to remit the payments to TRSL, along with a report of members purchasing declared disaster/emergency leave. This separate report must include the member's name, Social Security number, the month/year being purchased, the full-time monthly salary rate, the months of contract, employee contributions and interest, employer contributions and interest, and the date the member made payment to the employer.

4. Employers who do not remit the employee and employer contributions paid by the member in accordance with R.S. 11:281 will be liable for any delinquent interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:163 (A)(2)(a) and (C)(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System of Louisiana, LR 32:867 (May 2006).

Chapter 5. Deferred Retirement Option Plan (DROP)

§501. Definitions and General Provisions

A. As used herein, the following words and phrases have the meanings ascribed to them in this Section unless a different meaning is plainly required by the context:

DROP Participant—a member for whom deferred retirement option plan participation has commenced due to TRSL having received a physically or electronically signed DROP application and who lives for at least 30 days after the effective date of DROP participation.

Involuntary Termination—the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL employer on the following day.

Voluntary Termination—the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment and is not rehired by another TRSL employer the following day.

Year—one full calendar year, 365 days, or 366 days in a leap year.

B. These general provisions apply to applications submitted to participate in DROP unless otherwise indicated.

1. Applications for DROP may be mailed, faxed or sent electronically, but must be complete and signed.

2. A member shall not begin his DROP participation until TRSL has received a signed application for DROP on an authorized TRSL form. The member should complete, sign and submit all portions of the authorized TRSL DROP application form.

3. In the event an employer fails to submit the application in a timely fashion, the provisions of R.S. 11:761 shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 46:1241 (September 2020).

§502. Service Requirements for School Food Service Plan A

A. Members of School Food Service Plan A of the Teachers' Retirement System of Louisiana (TRSL), in lieu of terminating employment and accepting a retirement allowance, may elect to participate in the deferred retirement option plan (DROP) in accordance with R.S. 11:786-791 when the following eligibility requirements for plan participation are met.

1. 30 years of service credit at any age;

2. 25 years of service credit and at least age 55; and

3. 10 years of service credit and at least age 60 (excluding military service).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 46:1241 (September 2020).

§503. Management of DROP Accounts

A. Deposits to DROP accounts will be effective on the first day of each month of participation in the plan. Any DROP account deposit attributable to the first month of DROP participation shall be prorated to coincide with the first day of DROP participation. Any DROP account deposit attributable to the last month of DROP participation shall be prorated to coincide with the last day of DROP participation.

B. DROP account statements will be issued on a quarterly basis as follows:

1. statements issued during DROP participation will reflect all account deposits for a quarterly period;

2. statements issued after completion of DROP participation and termination of employment will reflect all account withdrawals for a quarterly period; and

3. statements issued after completion of DROP participation and prior to termination of employment will reflect total account deposits and interest earned for the quarterly period.

C. Interest earnings will begin accruing the day after termination of DROP participation and will be calculated on the daily principal balance and posted annually or monthly as listed below:

1. members eligible to enter DROP prior to January 1, 2004, will have interest deposited to their DROP accounts once a year when the actuarially realized rate of return is approved by the Public Retirement Systems' Actuarial Committee. This interest will be equal to the approved actuarially realized rate of return less an administrative fee. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued after this approval is obtained. No interest will accrue on the DROP account after the date the account has been liquidated. No interest is paid on any interest only balance. *Liquidated* means all funds have been withdrawn from the DROP account except for the possible final interest earnings due but not yet posted;

2. members eligible to enter DROP on or after January 1, 2004, will have their DROP funds transferred to a liquid asset money market account after the termination of DROP participation. Interest will be deposited monthly based on the interest earned on the liquid asset money market account less an administrative fee. Final payouts of DROP accounts will have interest posted through the date of the payment. Quarterly statements issued will reflect the interest earned and posted;

D. Withdrawal payments from DROP accounts will be issued on the fifteenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:500 (March 1998), amended LR 25:1655 (September 1999), LR 30:100 (January 2004), LR 46:1241 (September 2020).

§505. Duration of DROP Participation

A. Participation in DROP may not exceed a period of three consecutive years.

1. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met.

2. The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate.

3. The participation period may only be shortened by the participant's termination of employment or death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), amended LR 19:1601 (December 1993), LR 21:1267 (November 1995), repromulgated LR 24:500 (March 1998), LR 46:1242 (September 2020).

§509. Withdrawal of Funds from a DROP Account

A. Withdrawals from a DROP account may begin after the first regular retirement benefit has been issued. Withdrawals from a DROP account are not permitted prior to the termination of DROP participation or during employment which continues immediately following the DROP participation period and shall be limited to the following methods:

1. withdrawal of the total DROP account balance at the termination of DROP participation and employment;

2. monthly withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from month to month (refer to §511.A);

3. monthly withdrawals based upon an amount to be withdrawn each month, as specified by the participant. This periodic payment shall not vary from month to month, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy (refer to §511.A);

4. annual withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from year to year. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A);

5. annual withdrawals based upon an amount to be withdrawn each year, as specified by the participant. This periodic payment shall not vary from year to year, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A); and

6.a. one-time partial account balance withdrawal at the beginning of, or during the term of, monthly or annual withdrawals selected in accordance with §509.A.2, 3, 4, or 5. If the one-time partial account balance withdrawal is made before any other withdrawals, the balance of the account will be paid as determined by the withdrawal method selected in accordance with §509.A.2, 3, 4, or 5. If withdrawals have already begun, the duration of the remaining monthly and or annual withdrawals will be redetermined and the appropriate federal tax laws will be applied. If the one-time partial account balance withdrawal is to be made after the monthly or annual withdrawals have begun, the retiree must meet one of the following conditions:

i. participant must have been at least age 55 in the year of participant's retirement; or

ii. participant must be at least 59 1/2 at the time participant chooses the one-time single lump sum withdrawal;

b. changes to the monthly or annual withdrawals may only be made in accordance §511.A;

c. if a member is 72 or older when he chooses a partial single sum after withdrawals have begun, even though he retired at a younger age, he will have the required minimum distribution calculated using the "Single Life Table" (SLT), or he may choose the "Uniform Lifetime Table" (ULT), or the "Joint and Last Survivor Table" (JLST), whichever applies. The result of using one of these tables may allow a member to lower his monthly or annual withdrawal;

7. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

B. Selection of the withdrawal method and the amount of the periodic payment must be complete, correct, and on the form prescribed by TRSL. The correctly completed prescribed TRSL form should be received by TRSL 30 days prior to the disbursement, but no later than 8 business days prior to disbursement. Members under age 72 in the year of retirement must begin withdrawals within 12 months of the date of retirement. Members age 72 or older in the year of retirement must begin withdrawals by April 1 of the calendar year following the date of retirement or 12 months after retirement, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:501

(March 1998), amended LR 28:1031 (May 2002), LR 28:2569 (December 2002), LR 46:1242 (September 2020).

§511. Change of DROP Withdrawal Method

A. The participant will have one opportunity per 12-month period to change the chosen withdrawal method and/or amount if the original method selected was either §509.A.2, 3, 4, or 5. Any change must be made in accordance with the life expectancy of the participant.

1. For participants under age 72, any change in the withdrawal method must be made in accordance with the life expectancy of the participant at the time of his retirement, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

2. For participants over age 72 at the time of the change, the change in the withdrawal method may allow the participant to reduce the disbursement only if the participant was not age 72 at the time he began withdrawals. Otherwise the rule under §511.A.1 will apply.

B. Except as provided below, when the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the "Single Life Table" (SLT) for participants first eligible to begin withdrawing.

1. If a retiree is 72 or older, he must meet a required minimum distribution (RMD) and may request the use of the "Single Life Table" (SLT), "Uniform Lifetime Table" (ULT) or the "Joint and Last Survivor Table" (JLST), whichever applies. Once the election has been made he cannot elect to make a change at a later date.

C. The selection of a withdrawal method and the amount of the periodic payment should be designated by the participant 30 days prior to disbursement, but no later than 8 business days prior to disbursement, on the form prescribed by the TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:621 (June 1992), repromulgated LR 24:502 (March 1998), amended LR 24:961 (May 1998), LR 28:1031 (May 2002), LR 28:2569 (December 2002), LR 46:1242 (September 2020).

§513. Termination of DROP Participation

A. When termination of the DROP participation period occurs because of the death of the participant, or if the death of the participant occurs in the absence of an executed affidavit of plan election, the provisions of R.S. 11:783 and R.S. 11:762 shall apply.

B. In the event of the death of the DROP participant/retiree, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A, and may make changes in accordance with §511. If the disbursements from the account began prior to the participant's death, the spousal beneficiary may make changes in accordance with §511.

C. In the event of the death of the participant during DROP participation, or after the end of the period of participation, but before total distribution of the DROP account balance, a beneficiary(ies) other than the participant's surviving spouse shall immediately receive a lump sum equal to the participant's balance in the DROP account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:622 (June 1992), amended LR 18:1419 (December 1992), LR 19:1602 (December 1993), repromulgated LR 24:502 (March 1998), amended LR 28:1032 (May 2002), LR 46:1243 (September 2020).

§515. Death of Beneficiary

A. In the event of the death of a surviving spousal or nonspousal beneficiary, any remaining DROP account balance will be paid to the estate of the beneficiary.

B. DROP accounts will be subject to all Louisiana laws governing community property, inheritance, and estate matters and will be administered in accordance with applicable state laws and orders of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana LR 18:622 (June 1992), repromulgated LR 24:502 (March 1998).

§517. Affidavit of Plan Election

A. If a member fails to return a completely executed and notarized affidavit of plan election to choose a retirement benefit option by 120 calendar days after the member's receipt of the unsigned affidavit or by 120 calendar days after the beginning of the member's DROP participation, whichever is later, then the member will have be deemed to not have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 18:622 (June 1992), amended LR 20:1020 (September 1994), repromulgated LR 24:502 (March 1998), LR 46:1226 (September 2020).

Chapter 7.Renunciation of Benefits

§701. General

A. Any person eligible to receive, or receiving, a benefit from the Teachers' Retirement System of Louisiana (TRSL), may renounce such benefits on the following terms and conditions.

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, TRSL shall have no further obligation or liability with respect to that benefit,

and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may only be renounced in its entirety. If a base benefit is renounced, there shall be no eligibility for later adjustment of benefits of any kind. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. A benefit may be renounced before or after payment begins. If the renunciation is after the start of payments, any payments received prior to the effective date of the renunciation are not affected.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:783.D.

6. If the person making the renunciation is legally separated or divorced but is not subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. A renunciation must be made on a form provided by TRSL and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by TRSL and may not be retroactive.

9. A person revoking, or participating in revocation of a benefit, must hold TRSL harmless from such action.

10. A revocation may not be used to terminate active participation in TRSL.

11. Amounts credited to a DROP account cannot be renounced.

12. TRSL makes no representation with respect to the effect of a revocation on a person's eligibility for receipt of any state or federal benefits or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs or eligibility for or receipt of such benefits is an issue for which the person making the revocation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 19:1602 (December 1993), repromulgated LR 24:503 (March 1998).

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. General

A. TRSL shall maintain a Retiree Payroll Deduction Program to provide for the voluntary deduction from the benefit payments of any retiree, beneficiary, or survivor, for the following purposes:

1. supplemental life, health, dental, cancer, or other supplemental insurance premiums to be sent to a domestic or foreign insurance vendor, collectively referred to as *companies* for purposes of this Chapter;

2. payments to be sent to banks and credit unions, collectively referred to as *credit unions* for purposes of this Chapter;

3. membership dues for any professional organization whose staff is included in the definition of "teacher" in La. R.S. 11:701, or for membership dues of any retiree organization receiving payment through voluntary deductions on the effective date of this rule, collectively referred to as "professional organizations" for purposes of this Chapter.

B. This Chapter shall not apply to the withholding of contributions for accident and health and life insurance coverage for participants in the Office of Group Benefits or for participants in group insurance plans offered through city or parish school boards or other reporting agencies not participating in Office of Group Benefits programs.

C. Any TRSL retiree, beneficiary, or survivor is eligible to participate in the Retiree Payroll Deduction Program. However, a retiree, beneficiary, or survivor shall not authorize total deductions which would cause the net amount of the benefit to fall below $5.00. TRSL will not deduct monthly premium amounts for any retiree, beneficiary, or survivor who owes monies to TRSL or has his/her benefit suspended.

D. A retiree, beneficiary or survivor may discontinue any voluntary payroll deduction from his/her monthly benefit check by providing written notification to the company, credit union or professional organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998), amended LR 47:1904 (December 2021).

§1103. Application Process

A. Application for participation in the Retiree Payroll Deduction Program must be to TRSL on a form prescribed by TRSL which shall be certified and signed by two officers of the company, credit union or professional organization.

The board of trustees retains the discretion to accept or deny any application for voluntary deductions by any company, credit union or professional organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998), amended LR 47:1904 (December 2021).

§1105. Company, Credit Union and Professional Organization Requirements

A. Companies must meet the payroll deduction requirements for general insurance deduction vendors as set forth in state law and must be regulated by the Department of Insurance.

B. Credit unions must be regulated by the Office of Financial Institutions.

C. Companies, credit unions and professional organizations must have a minimum of 50 participating TRSL retirees, beneficiaries or survivors to commence participation in the Retiree Payroll Deduction Program.

D. Companies, credit unions and professional organizations shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees, beneficiaries and survivors. Copies shall be made available to TRSL upon request.

E. Companies, credit unions and professional organizations are responsible for contract/loan terms between companies, credit unions and professional organizations and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

F. Companies and credit unions are responsible for submitting authorized deductions to TRSL in accordance with the following.

1. Authorized deductions shall be submitted to TRSL by the twelfth day of the month preceding the month for which the deduction will be made using the format and specifications established by TRSL.

2. If the twelfth day of the month falls on a weekend, the deductions shall be due on the immediately preceding Friday.

3. Files received after the twelfth day of the month will not be processed.

4. All deductions for a single company or credit union shall be submitted on one file.

5. A retiree, beneficiary or survivor shall be allowed only one monthly deduction for a single company or credit union effective at any one time, however, this deduction may cover more than one product for a single company or credit union.

G Each professional organization under this chapter who has membership dues remitted to them will enter into an agreement with TRSL which shall include provisions regarding the deduction timing, the manner in which information and membership dues are transmitted, and reimbursement for any fees or costs incurred by TRSL.

H. Companies, credit unions and professional organizations shall notify TRSL immediately upon learning of the death of a retiree, beneficiary or survivor. In the event that TRSL has remitted funds to the companies, credit unions and professional organizations after the death of a retiree, beneficiary or survivor and these funds were not due the retiree, beneficiary or survivor, companies, credit unions and professional organizations shall refund said monies to TRSL after notification.

I. Upon learning of the death of a retiree, beneficiary or survivor, even if not notified by the companies, credit unions and professional organizations, TRSL shall be refunded any monies transmitted, but not due, after notification. The companies, credit unions and professional organizations will accept the certification of TRSL as to date of death of retiree, beneficiary or survivor as sufficient evidence of date of death in regard to any funds owed to TRSL.

J. The company, credit union, or professional organization shall be responsible for refunding the amounts deducted in error to the individual retiree, beneficiary, or survivor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998), amended LR 47:1904 (December 2021).

§1107. Disclaimer

A. The company, credit union or professional organization is strictly prohibited from stating that any product offered has been endorsed or approved by TRSL and any such statement shall be grounds for immediate termination of the voluntary deduction program with said company, credit union or professional organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998), amended LR 47:1904 (December 2021).

§1109. Transmittal of Withheld Amounts

A. Amounts deducted pursuant to this Chapter will normally be transmitted to the company/credit union by wire transfer by the tenth of each month of a deduction, unless technical issues beyond the control of TRSL cause a delay. If the tenth falls on a weekend, the immediately following working day after the tenth will be the date of transmittal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998), amended LR 47:1904 (December 2021).

§1111. Termination of Payroll Deduction

A. The board of trustees may terminate the voluntary payroll deduction program by providing the company, credit union or professional organization with at least 30 days written notice.

B. Immediately upon notice from TRSL, payroll deductions for individual companies, credit unions or professional organizations company/credit unions may be terminated for unethical or unlawful conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998), amended LR 47:1904 (December 2021).

Chapter 13. Cost-of-Living

§1301. Cost-of-Living Adjustment—July 2, 1995

A. Effective July 2, 1995, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient, as determined in accordance with the formula, X (A + B + C), where:

1. A = the number of years of credited service accrued at the time of retirement or death of the member or retiree;

2. B = the number of years since retirement or since death of the member or retiree to July 1, 1994;

3. C = the number of years of service credit greater than 30 years; and

4. X = $1.

C. No increase in benefit shall be paid to any retiree, beneficiary, or survivor unless such person was receiving benefits on, or prior to, July 1, 1994. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on, or prior to, July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787.D and 11:883.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 21:473 (May 1995), repromulgated LR 24:504 (March 1998).

§1303. Cost-of-Living Adjustment—July 1, 1998

A. Effective July 1, 1998, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits, on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient as determined in accordance with the formula: $10 + W + 2X + Y + 2Z, where:

1. W = $1 per year since retirement or death of the member or retiree to June 30, 1997;

2. X = $1 per year since retirement or death of the member or retiree in excess of 10 years as of June 30, 1997;

3. Y = $1 per year of credited service at the time of retirement or death of the member or retiree;

4. Z = $1 per year of credited service greater than 25.0 years at the time of retirement or death of the member or retiree.

C. No increase in benefit shall be paid to any retiree, beneficiary or survivor unless such person was receiving benefits on or prior to June 30, 1997. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on or prior to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787.D and 11:883.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 24:1138 (June 1998).

Chapter 15. Optional Retirement Plan (ORP)

§1501. Definitions

A. Terms not otherwise defined in this Chapter shall have the meaning given by the *Internal Revenue Code*.

B. Whenever used in the plan, each of the following terms has the meaning stated below.

Account—the total of the individual sub-account(s) maintained on behalf of each participant, beneficiary, or alternate payee under the investment option(s) held pursuant to the plan. The following sub-accounts shall be maintained by the ORP providers: an employer *account* to which employer contributions shall be credited; and an employee *account* to which employee contributions shall be credited. The ORP provider shall maintain such other accounts as determined by the ORP provider and the plan administrator.

Alternate Payee—a person who is an *alternate payee* under an order directed to the plan that the plan administrator or ORP provider has determined to be a domestic relations order.

Applicable Form—a form prescribed by the plan administrator or an ORP provider.

Applicable Law—the law of the state of Louisiana or, where required, federal law, including the *Internal Revenue Code*.

Beneficiary—the eligible recipient of an annuity or other benefit provided by the plan. A *beneficiary* shall be a natural person or the succession of a natural person.

Board of Trustees—the board provided for by retirement system law to administer the plan.

Contributions—*contributions* under the provisions of this plan, including employee *contributions* and employer *contributions*.

Distributee—any participant or beneficiary who receives, or but for his/her instruction to the plan administrator or ORP provider is entitled to receive, a distribution. A *distributee* includes an alternate payee to whom the plan administrator or ORP provider is directed to make a payment under a domestic relations order.

Distribution—as appropriate in the context, any kind of *distribution* or the particular kind of *distribution* provided by the plan.

Distribution Commencement Date—the first date on which a distribution (or any payment under a distribution) is paid or becomes payable.

Domestic Relations Order or *DRO*—a *domestic relations order* directed to the plan that creates or recognizes the existence of the right of an alternate payee to receive all or a portion of any benefit payable to a participant under the plan and that further meets all requirements for a *domestic relations order* as applied to a governmental plan.

DRO Distribution—a distribution to an alternate payee required or permitted following a DRO.

Earnable Compensation—the compensation earned by an employee during the full normal working time as a teacher as defined in R.S. 11:701. *Earnable compensation* shall include any differential wage payment as defined by 26 U.S.C. §3401(h)(2) that is made by an employer to any individual performing qualified military service. *Earnable compensation* shall not include per diem, post allowances, payment in kind, hazardous duty pay, or any other allowance for expense authorized and incurred as an incident to employment, nor payments in lieu of unused sick or annual leave, nor retroactive salary increases unless such an increase was granted by legislative act or by a city or parish system wide salary increase, nor payment for discontinuation of contractual services, unless the payment is made on a monthly basis. If an employee is granted an official leave and he or she makes contributions for the period of leave, earnable compensation shall not include compensation paid for other employment which would not have been possible without the leave. The board of trustees shall determine whether or not any other payments are to be classified as *earnable compensation*.

Effective Date—July 1, 1990, which is the *effective date* of the plan. The implementation of the plan for academic and administrative employees of public institutions of higher education occurred on July 1, 1990. The implementation of the plan for employees of constitutionally established higher education boards occurred on July 1, 1998.

Eligible Employee—has the meaning provided in R.S. 11:921 and 11:928.

Employee Contribution—contributions required from the participant under R.S. 11:927.

Employer—any *employer* of an employee who makes irrevocable election to be in the plan which includes employees of the Board of Regents, Board of Supervisors of the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, any other constitutionally established board which manages institutions of higher education, public institutions of higher education, or any other TRSL-covered *employer* with an employee required to continue participation in the ORP as provided in R.S. 11:928.

Employer Contributions—contributions made by the employer under R.S. 11:927.

Enabling Statute—R.S. 11:921 et seq.

Internal Revenue Code or *IRC*—the *Internal Revenue Code* of 1986, as amended, and including any regulations and rulings (or other guidance of general applicability) under the *IRC*, as applicable to a governmental plan as defined by *IRC* §414(d).

Investment Option—any investment option offered by the ORP provider.

ORP Provider—a company designated by the Board of Trustees of the Teachers' Retirement System of Louisiana under R.S. 11:924.

Participant—the eligible employee who has irrevocably elected to participate in the plan.

Payout Option—any of the annuity options or other options for payment that is provided in R.S. 11:929. A *payout option* must satisfy all applicable provisions of the plan.

Personal Representative—the person duly appointed by an order of the court (or of a registrar or administrator under the court's supervision) having jurisdiction over the estate of the participant that grants the person the authority to receive the property of the deceased participant and to act as the *personal representative* of the participant's probate estate.

Plan or *ORP*—the Louisiana optional retirement *plan* provided by R.S. 11:921 et seq., and applicable regulations.

Plan Administrator—consistent with R.S. 11:923 and R.S. 11:924, the Teachers' Retirement System of Louisiana Board of Trustees or any successor.

Plan Sponsor—the state of Louisiana.

Regular Retirement Plan—the defined benefit pension plan administered by the Teachers' Retirement System of Louisiana.

Retirement System Law—those provisions of title 11 of the *Revised Statutes* of Louisiana that apply generally to the management or administration of this plan or the regular retirement plan of the Teachers' Retirement System of Louisiana.

Rollover Distribution—any eligible *rollover distribution* that is to be paid directly into an eligible retirement plan as a rollover under IRC §§401(a)(31) and 402.

R.S.—*Louisiana Revised Statutes*.

SEC—the Securities and Exchange Commission, an agency of the government of the United States of America, established by §4(a) of the federal Securities Exchange Act of 1934.

Severance from Employment—the date the participant terminates employment with an employer with no obligation for future services to be performed for an employer in the plan by the participant.

Spouse—the person to whom a participant is married if the marriage is recognized by the state or other United States territory where the marriage is entered into, regardless of domicile. A domestic partner shall not be treated as a spouse.

State—the *state* of Louisiana unless the context clearly indicates otherwise.

TRSL—Teachers' Retirement System of Louisiana.

Trust—the legal entity and the legal relationship created by state law. Consistent with IRC §401(a)(2), the *trust* must be solely for the purposes of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2272 (November 2014), amended LR 47:1902 (December 2021).

§1503. Plan Year

A. The plan year for the plan shall be the fiscal year commencing July 1 through June 30. The limitation year is the calendar year.

B. The plan administrator and ORP provider shall be entitled to rely on the assumption that a participant's taxable year is the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2273 (November 2014).

§1505. Establishment of Plan

A. The plan sponsor and plan administrator intend that the plan conform to the *Internal Revenue Code* of 1986 requirements for favorable federal tax treatment under IRC §401(a) and is a governmental plan within the meaning of IRC §414(d), with employee contributions picked up under an arrangement consistent with IRC §414(h)(2). Therefore, the plan administrator will construe and interpret the plan to state provisions that conform to the requirements of IRC §401, as applicable to a governmental plan under IRC §414(d). When the *Internal Revenue Code* is amended through subsequent legislation, or interpreted through revenue rulings, the plan administrator will construe and interpret the plan as stating provisions consistent with such amendment of relevant law.

B. To the extent required for this plan to qualify under IRC §401(a), the provisions of this plan shall be construed, consistent with treasury reg. §1.401-1(b)(1)(i), to provide:

1. a definite pre-determined formula for allocating contributions and a definite pre-determined formula for allocating investment earnings (and losses) among accounts;

2. periodic valuation of plan assets (including investment options) and trust assets at least once each year;

3. periodic valuation of accounts at least once each year; and

4. distribution of plan accounts after severance from employment or the occurrence of some event.

C. This Chapter states the provisions of an optional retirement plan for the classes of employees covered by R.S. 11:921 et seq. The purpose of the optional retirement plan is set out by R.S. 11:922. The provisions of R.S. 11:921 et seq., are incorporated as if fully set out in this *Louisiana Administrative Code*.

D. The plan is established and maintained with the intent that the plan conforms to the applicable requirements of the retirement system law. The provisions of the plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the enabling statute. When the enabling statute is amended or interpreted through subsequent legislation or regulations or an attorney general opinion, the plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law. In the event of a conflict between the *Louisiana Administrative Code* and the enabling statute, the enabling statute will supersede.

E. Subject only to the Constitution of Louisiana, the Louisiana legislature has the right to amend the plan at any time. To the extent consistent with the retirement system law, the plan administrator has the right to amend the plan to implement applicable federal and state law at any time. Any amendment of the plan and trust shall not be effective to the extent that the amendment has the effect of causing any plan assets to be diverted to or inure to the benefit of the plan administrator, ORP provider, or any employer, or to be used for any purpose other than providing benefits to participants and beneficiaries and defraying reasonable expenses of administering the plan and trust.

F. The plan is established for the exclusive benefit of participants and their beneficiaries. Consistent with IRC §401(a)(2), no amount held under the plan will ever inure to

the benefit of the plan sponsor, any employer, the plan administrator, the ORP provider or any successor of any of them, and all plan investments and amounts will be held for the exclusive purpose of providing benefits to the plan's participants and their beneficiaries. Notwithstanding anything in the plan to the contrary, plan assets shall not be used for or diverted to purposes other than for the exclusive benefit of participants, beneficiaries, and alternate payees before the satisfaction of all liabilities to participants, beneficiaries, and alternate payees, except that payment of taxes and administration expenses may be made from the plan assets as provided by the plan or permitted by applicable law.

G. Plan contributions are invested, at the direction of each participant, in one or more funding vehicles provided by ORP providers to participants under the plan. Required participant plan contributions are designated picked up so as not to be included in participants' gross income for federal income tax purposes as provided by IRC §414(h)(2).

H. At no time shall the plan assets be used for, or diverted to, any person other than for the exclusive benefit of the employees and their beneficiaries and defraying reasonable expenses of administering the plan, except that contributions made by the employer may be returned to the employer if the contribution was made due to a mistake of fact.

I. The plan, and all acts and decisions taken under it, is binding and conclusive, for all purposes, upon every participant, beneficiary, alternate payee, any person claiming through a participant or beneficiary or alternate payee, all other interested persons, and upon the personal representatives, executors, administrators, heirs, successors and assigns of any and all such persons. The plan shall not affect contracts or other dealings with a person who is not an interested person, unless a written agreement executed by that person expressly so provides.

J. For purposes of the IRC, the plan is a defined contribution money purchase retirement plan under IRC §401(a).

K. The plan is an individual account plan which provides for an individual account for each participant and for benefits based solely upon the amount of contributions, investment gains and losses, fees, and expenses allocated to the participant's account.

L. The *United States Code* provisions created by title I of the Employee Retirement Income Security Act of 1974 ("ERISA") do not apply to this plan.

M. The plan is a governmental plan within the meaning of 29 USC 1002(32) and IRC §414(d).

N. The Teachers' Retirement System of Louisiana as the plan administrator provides for the administration and maintenance of the ORP pursuant to R.S. 11:921 et seq. The plan administrator may delegate duties to ORP providers to the extent permitted by applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2273 (November 2014).

§1507. Eligibility and Election to Participate

A. Academic and administrative employees of public institutions of higher education and employees of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who are current employees in the regular retirement plan of the TRSL may make an irrevocable election to participate in the ORP within 180 days after the implementation date of the ORP at their employer institution or board.

B. Academic and administrative employees of public institutions of higher education and employees of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who are initially employed on or after the implementation date at their employer institution or board may make an irrevocable election to participate in the ORP within 60 days after their employment date.

C. Any academic or administrative employee of a public institution of higher education or employee of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, or Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who is a part-time, seasonal, or temporary employee as defined in 26 CFR 31:3121(b)(7)-2, or in any successor regulation shall be eligible to participate in the ORP upon election by such employee.

D. Notwithstanding the provisions of Subsections A and B of this Section, any academic or administrative employee of a public institution of higher education and any employee of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College, or their successors, and any other constitutionally established board which manages institutions of higher education who is an active contributing member in the regular retirement plan of the TRSL and who has less than five years of creditable service in the TRSL, may make an irrevocable election to

participate in the ORP and transfer his accumulated employee contributions to the ORP under the provisions of R.S. 11:926(A). This election can only be made by a member prior to attainment of five years of creditable service in the TRSL.

E. Elections must be made in writing and filed with the appropriate officer of the employer institution or board, who shall forward a copy of the completed election to the TRSL.

F. The election of employees making an election to participate in ORP as provided in Subsection A of this Section will be effective as of the date they are filed. Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their institution or board as provided in Subsection B of this Section will be effective as of the date of their employment. If an eligible employee fails to make the election provided for in this Section, he shall become a member of the regular retirement plan of the TRSL in accordance with R.S. 11:721.

G Any person electing to participate in the ORP shall always be ineligible for membership in the regular retirement plan of the TRSL even if he is employed in a position covered by the TRSL, as prescribed by R.S. 11:928.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2274 (November 2014).

§1509. Employee Contributions

A. Each participant shall contribute a mandatory monthly employee contribution percentage into the plan, as provided by law. Each employer shall pick-up employee contributions for all earnable compensation paid after the effective date. The employee contributions so picked up shall be treated as employer contributions pursuant to IRC §414(h)(2). The employer shall remit the picked up contributions to the TRSL for direct transfer to the ORP provider, instead of paying such amounts to the participants, and such contributions shall be paid from the same funds that are used in paying salaries to participants. Such contributions, although designated as employee contributions, shall be paid by the employer in lieu of contributions by participants. Participants may not elect to receive such contributions directly instead of having them paid by the employer to the plan. Employer contributions so picked up shall be treated for all purposes of the plan and state law, other than federal tax law, in the same manner as employee contributions made without a pick-up. See PLR 8633052.

B. The entirety of each participant's contribution, less any monthly fee established by the board of trustees to cover the cost of administration and maintenance of the plan, will be remitted to the ORP provider for application to the participant's account.

C. If a participant first became eligible for membership in the TRSL, or the plan, on or after July 1, 1996, the employee contributions remitted by the TRSL to any ORP provider shall not be based on compensation in excess of the annual limit of IRC §401(a)(17) as amended and revised pursuant to IRC §401(a)(17)(B).

D. A participant who attains his or her eligibility for a distribution and continues to be an employee will continue to make employee contributions, and will continue to participate under the plan until his or her severance from employment or the occurrence of some other event. Further, a participant's and spouse's right to his/her account is non-forfeitable as of his/her eligibility for a distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2275 (November 2014).

§1511. Employer Contributions

A. Each employer shall contribute a mandatory monthly employer contribution percentage into the plan, as provided by law. Upon receipt of the employer contribution, the TRSL will promptly forward the amount established in compliance with law to the ORP provider. Such amount paid over to the ORP provider shall be credited to the participant's account. The TRSL shall retain the balance of the employer contribution for application to the unfunded accrued liability of the TRSL.

B. If a participant first became eligible for membership in the Teachers' Retirement System of Louisiana, or the ORP, on or after July 1, 1996, the employer contributions remitted by the Teachers' Retirement System of Louisiana to any ORP provider shall not be based on compensation in excess of the annual limit of IRC §401(a)(17) as amended and revised pursuant to IRC §401(a)(17)(B).

C. A participant who attains his eligibility for a distribution and continues to be an employee will continue to receive employer contributions, and will continue to participate under the plan until his or her severance from employment or the occurrence of some other event. Further, a participant's and spouse's right to his/her account is non-forfeitable as of his/her eligibility for a distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2275 (November 2014).

§1513. Distributions

A. Retirement benefits shall be payable to plan participants or their beneficiaries by the ORP providers. Subject to the provisions of the contract, retirement benefits shall be paid in the form of a lifetime income, unless the participant or beneficiary requests a trustee-to-trustee single-sum cash rollover payment between qualified plans, or payment made directly to an individual retirement account, but death benefits may be paid in the form of a single-sum cash payment paid directly to the beneficiary or estate, whichever is applicable.

B. The ORP provider shall offer ORP participants the following singe-sum cash payments:

1. direct transfers by and between OPR providers;

2. death benefits.

3. an initial benefit payable upon retirement, provided such benefit is approved by the ORP provider. The initial benefit shall not exceed an amount equal to the participant's monthly benefit, payable as a single-life annuity with no guarantees, times 36.

C. Minimum Distribution

1. For purposes of this Section, the following definitions shall apply.

Designated Beneficiary—any individual who is designated as the beneficiary under the plan and is the designated beneficiary under IRC §401(a)(9) and treasury regulations section 1.401(a)(9)-1, Q&A-4.

Eligible Designated Beneficiary—a designated beneficiary who, as of the date of the death of the participant, is:

i. the surviving spouse of the participant;

ii. a child of the participant who has not reached the age of majority within the meaning of Code Section 401(a)(9)(F);

iii. disabled within the meaning of Code Section 72(m)(7);

iv. chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or

v. any other designated beneficiary who is not more than 10 years younger than the participant. Notwithstanding the preceding, a child described in Clause ii above shall cease to be an eligible designated beneficiary as of the date he or she reaches the age of majority within the meaning of Code Section 401(a)(9)(F).

Required Beginning Date—the April 1 of the calendar year following the later of:

i. the calendar year in which the participant attains age 72 (or age 70 1/2 if the participant was born before July 1, 1949); or

ii. the calendar year in which the participant retires.

(a). The participant, alternate payee, or beneficiary may elect on the applicable form whether to recalculate life expectancy (or any element of it) to the fullest extent permitted by IRC §401(a)(9)(D). If the participant, alternate payee, or beneficiary does not timely make this election, the participant, alternate payee, or beneficiary is deemed to have elected the default method specified by the applicable investment option(s), or to the extent that no method is so specified, that no recalculation shall apply with respect to any individual's life expectancy.

2. The requirements of this Section will take precedence over any inconsistent provisions of the plan. All distributions required under this Section will be determined and made in accordance with IRC §401(a)(9) and the treasury regulations under IRC §401(a)(9). Distributions to a participant and his/her beneficiaries shall only be made in accordance with the incidental death benefit requirements of IRC §401(a)(9)(G) and the treasury regulations thereunder.

3. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date. If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

a. If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 72 (or age 70 1/2 if the participant was born before July 1, 1949), if later.

b. If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

c. If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

d. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Subparagraph, rather than Subparagraph 3.a, will apply as if the surviving spouse were the participant.

4. For purposes of this Section, unless Subparagraph 3.a applies, distributions are considered to begin on the participant's required beginning date. If Subparagraph 3.a applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Subparagraph 3.a. If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse) before the date distributions are required to begin to the surviving spouse under Subparagraph 3.a, the date distributions are considered to begin is the date distributions actually commence.

5. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the

requirements of IRC §401(a)(9) and the treasury regulations thereunder.

6. If a distribution is required to begin to a beneficiary and the beneficiary has not filed a claim by the date that is 90 days before the date required by IRC §401(a)(9) (or if the ORP provider has denied a claim and an acceptable claim has not been filed before the applicable date), the ORP provider shall direct payment (or, if provided by the investment option, the ORP provider may without instruction make payment) according to the automatic payout option provided by the applicable investment option(s), or, to the extent not so provided, as a lump sum distribution.

7. If a participant has not furnished evidence of his or her spouse's date of birth, the ORP provider will use the employee's age in determining the minimum distribution period according to treasury reg. §1.401(a)(9)-5/Q&A-4(a) without regard to treasury reg. §1.401(a)(9)-5/Q&A-4(b).

8. Upon the death of a participant after December 31, 2021, the following distribution provisions shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the Setting Every Community Up for Retirement Enhancement (SECURE) Act.

a. If the participant dies before the distribution of his or her entire interest (regardless of whether any distributions had begun before the participant's death) and the participant has a designated beneficiary:

i. the entire interest shall be distributed to the designated beneficiary by December 31 of the calendar year containing the tenth anniversary of the participant's death;

ii. notwithstanding Clause a.i, if the designated beneficiary is an eligible designated beneficiary, then the participant's entire interest shall be distributed beginning no later than December 31 of the calendar year immediately following the calendar year in which the participant died, over the life of the eligible designated beneficiary or over a period not exceeding the life expectancy of the eligible designated beneficiary. If the eligible designated beneficiary is the surviving spouse, payment is not required until the later of December 31 of the calendar year immediately following the calendar year in which the participant died or December 31 of the calendar year in which the participant would have attained age 72 or age 70 1/2 if the participant was born before July 1, 1949.

iii. Upon the death of an eligible designated beneficiary before distribution of the participant's entire interest, the remainder of the entire interest shall be distributed to the beneficiary of the eligible designated beneficiary within 10 years of the eligible designated beneficiary's death.

iv. For an eligible designated beneficiary who is a minor child of the member, upon the attainment of the age of majority within the meaning of Code Section 401(a)(9)(F), the child shall cease to be an eligible designated beneficiary, and the remainder of the participant's entire interest shall be distributed to the child as a designated beneficiary within 10 years of the date that he or she attains the age of majority.

b. If the participant dies before distribution of his or her entire interest begins and the participant has no designated beneficiary, the participant's entire interest under the plan shall be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death. If the participant dies after distribution of his or her entire interest begins and the participant has no designated beneficiary, any remaining portion of the entire interest shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the participant's death.

c. Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under Paragraph 8 of this Subsection.

D. Required Minimum Distribution Waiver of 2009

1. Notwithstanding any other provisions of this Section, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of IRC §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are: equal to the 2009 RMDs; or one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant's designated beneficiary, or for a period of at least 10 years ("extended 2009 RMDs"), will not receive those 2009 distributions unless the participant or beneficiary elects to receive such distribution. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. However, those participants and beneficiaries who receive required minimum distributions though the automatic payment system will continue to receive 2009 RMDs unless he or she elects not to receive the 2009 RMDs.

2. Notwithstanding any other provisions of the plan, and solely for purposes of applying the rollover provisions of the plan, 2009 RMDs [amounts that would have been required minimum distributions for 2009 but for the enactment of IRC §401(a)(9)(H)] and extended 2009 RMDs (one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant's designated beneficiary, or for a period of at least 10 years), will be treated as eligible rollover distributions.

E. Claim for Distribution

1. Any distribution shall be paid only upon a claim made on the applicable form, and submission of additional information requested by the ORP provider, including but not limited to:

a. if the distribution is made, appropriate evidence that the participant has a severance from employment;

b. if the distribution is an eligible rollover distribution, the distributee's instruction as to whether the distribution (or a portion of the distribution) is to be paid directly to an eligible retirement plan, and if any amount is to be paid directly to an eligible retirement plan, the name and address of the trustee or administrator of that eligible retirement plan together with any other information that the plan administrator, ORP provider, or the eligible retirement plan administrator reasonably requests pursuant to treas. reg. §1.401(a)(31)-1;

c. if the distribution is made on account of the participant's death, appropriate evidence of the participant's death;

d. whenever required by the ORP provider, the date-of-birth of any distributee as relevant to the distribution;

e. if the account consists of more than one investment option, the order in which any investment options are to be charged or redeemed to pay the distribution; and

f. any other evidence or information that the ORP provider finds is relevant to administer a provision of the plan in the participant's or beneficiary's and the distributee's circumstances.

F. Required Minimum Distribution Waiver of 2020

1. Notwithstanding any other provisions of this section, for 2020, the minimum distribution requirements will be satisfied as provided in this section, as determined by the provider responsible for the participant's or beneficiary's required minimum distribution.

2. A participant or beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 2, 2021) but for the enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, IRC 401(a)(9)(I) (2020 RMDs), and who would have satisfied that requirement by receiving distributions that are either equal to the 2020 RMDs or one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years (extended 2020 RMDs) will not receive those distributions for 2020 unless the participant or beneficiary chooses to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. However, those participants and beneficiaries who receive required minimum distributions through the automatic payment system will continue to receive 2020 RMDs unless he or she elects not to receive the 2020 RMDs.

3. A participant or beneficiary who would have been required to receive a 2020 RMD, and who would have satisfied that requirement by receiving distributions that are equal to the 2020 RMDs or extended 2020 RMDs, will receive this distribution unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distribution described in the preceding sentence.

4. For purposes of the direct rollover provisions of the Plan, 2020 RMDs and extended 2020 RMDs shall also be treated as eligible rollover distributions in 2020.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2275 (November 2014), amended LR 47:1902 (December 2021).

§1515. Rollover Distribution

A. For purposes of this Section, the following definitions shall apply.

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes a participant or former participant. It also includes the participant's or former participant's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a domestic relations order. It also includes the participant's or former participant's nonspouse beneficiary who is a designated beneficiary as defined by IRC §401(a)(9)(E). Effective January 1, 2007, and notwithstanding anything in the plan to the contrary that otherwise would limit a *distributee's* election under this Section, and to the extent allowed under the applicable provisions of the IRC and the treasury regulations, a *distributee* who is a designated beneficiary, but not a surviving spouse, spouse or former spouse alternate payee may elect, at the time and in the manner prescribed by the plan administrator, to have all or any part of the account that qualifies as an eligible rollover distribution paid in a direct trustee-to-trustee transfer to an eligible retirement plan that is an individual retirement plan described in Clause (i) or (ii) of the IRC §402(c)(8)(B). If such a transfer is made:

a. the transfer shall be treated as an eligible rollover distribution;

b. the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of IRC §408(d)(3)(C); and

c. IRC §401(a)(9)(B) (other than clause (iv) thereof) shall apply to such individual retirement plans.

Eligible Retirement Plan—any program defined in IRC §§401(a)(31) and 402(c)(8)(B), that accepts the distributee's eligible rollover distribution, and any of the following:

a. an individual retirement account under IRC §408(a);

b. an individual retirement annuity under IRC §408(b);

c. a qualified trust as described in IRC §401(a), provided that such trust accepts the employee's eligible rollover distribution;

d. an annuity plan as described in IRC §403(a);

e. an eligible deferred compensation plan described in IRC §457(b) which is maintained by an eligible governmental employer under IRC §457(e)(1)(A) (provided the plan contains provisions to account separately for amounts transferred into such plan);

f. an annuity contract under IRC §403(b); or

g. a Roth IRA as described under IRC §408A.

h. effective December 18, 2015, a simple IRA as described under IRC §408(p), provided that the rollover contribution is made after the two-year period described in IRC §72(t)(6).

Eligible Rollover Distribution—

a. the distribution of all or any portion of the balance to the credit of an employee from a qualified plan, except that an *eligible rollover distribution* does not include:

i. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the participant and the participant's designated beneficiary, or for a specified period of 10 years or more;

ii. any distribution to the extent such distribution is required under IRC §401(a)(9); or

iii. the portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an *eligible rollover distribution* for purposes of a rollover to either:

(a). a traditional individual retirement account or individual retirement annuity under IRC §§408(a) or 408(b); or

(b). a qualified trust which is part of a plan which is a defined contribution plan or a defined benefit under IRC §§401(a) or 403(a) or to an annuity contract described in IRC §403(b), and such trust or annuity contract separately accounts for amounts so transferred, including separate accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not includible.

b. a qualified rollover contribution to a Roth IRA within the meaning of IRC §408A.

B. Consistent with IRC §401(a)(31), for any distribution that is an eligible rollover distribution, the distributee may elect, at the time and in the manner prescribed by the ORP provider, to instruct the ORP provider to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee. The ORP provider shall provide written information to the distributee regarding eligible rollover distributions no more than 180 days prior to payment of the eligible rollover distribution, to the extent required by IRC §402(f).

C. A current employee in the TRSL who elects participation in the plan shall have the right to have his or her accumulated employee contributions transferred to the plan to purchase benefits thereunder in accordance with R.S. 11:926. A current vested employee in the TRSL or an employee with sufficient years of service credit but who is not old enough to receive a benefit and who elects participation in the plan will have the same rights and privileges accorded by R.S. 11:726.

D. The ORP provider may (but is not required to) commence the distribution less than 30 days after giving an eligible rollover distribution notice only if the following requirements are met. To the extent required by IRC §402(f) and treasury reg. §1.402(c)-2, the ORP provider must inform the distributee in an eligible rollover distribution notice or otherwise that the distributee has a right to a period of at least 30 days after receiving the eligible rollover distribution notice to consider the decision of whether to elect a distribution and any available payout option, and the distributee after receiving the eligible rollover distribution notice must affirmatively elect a distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2277 (November 2014), amended LR 47:1904 (December 2021).

§1517. Benefit Limitation

A. Annual additions with respect to a member shall not exceed the lesser of $40,000 (as adjusted pursuant to IRC §415(d) or 100 percent of the member's compensation.

1. For purposes of this Section, the following definition shall apply.

Annual Additions—the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

2. For purposes of applying IRC §415(c) and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulation §1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under IRC §414(h) shall not be treated as compensation.

3. Compensation will be defined as wages within the meaning of IRC §3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under IRC §§6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under IRC

§3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed [such as the exception for agricultural labor in IRC §3401(a)(2)].

a. However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under IRC §§125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

b. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of IRC §132(f)(4).

B. For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of two and one-half months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer.

C. Any payments not described in Subsection B of this Section are not considered compensation if paid after severance from employment, even if they are paid within two and one-half months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service [within the meaning of IRC §414(u)(1)] to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

D. An employee who is in qualified military service [within the meaning of IRC §414(u)(1)] shall be treated as receiving compensation from the employer during such period of qualified military service equal to:

1. the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or

2. if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

E. Back pay, within the meaning of treasury regulation §1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

F. If the annual additions for any member for a plan year exceed the limitation under IRC §415(c), the excess annual addition will be corrected as permitted under the employee plans compliance resolution system (or similar IRS correction program).

G For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this Paragraph shall not exceed the annual limit under IRC §401(a)(17).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2278 (November 2014).

§1519. Annual Compensation Limitation

A. In addition to other applicable limits stated by the plan and notwithstanding any other provision of the plan to the contrary, the amount of earnable compensation determined for the purposes of the contributions to the plan shall not exceed the limit prescribed by IRC §401(a)(17) as adjusted each year according to IRC §401(a)(17)(B).

B. For purposes of this Section, the following definition shall apply.

Annual Compensation—earnable compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living-adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

C. If the plan year or applicable period for determining *annual compensation* contains fewer than 12 calendar months, then this compensation limit is the amount equal to the annual IRC §401(a)(17) limit for the applicable calendar year during which the compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period by 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2279 (November 2014).

§1521. Fiduciary Responsibility

A. Any person electing to participate in the plan shall agree to the provisions of the plan in accordance with R.S. 11:929.

B. The ORP providers may not engage in any prohibited transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2279 (November 2014).

§1523. Plan Assets

A. Except as provided in Subsection B of this Section, plan assets shall be held by the ORP providers in an individual or group annuity contract, or custodial account which meets the requirements of IRC §401(f) in order to be treated as a qualified trust.

B. A separate trust is hereby established under state law for the purpose of segregating fees to be used for the payment of reasonable plan expenses. This trust shall be administered by the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2279 (November 2014).

§1525. Vesting

A. A participant's interest in his/her account shall immediately become and shall at all times remain fully vested and non-forfeitable.

B. The plan shall be construed consistently with IRC §§401(a)(4) and 401(a)(7) as in effect on September 1, 1974.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2279 (November 2014).

§1527. Governing Law

A. The plan, and actions under or relating to the plan, and the statute of limitations for such actions shall be governed by and enforced by the laws of the state of Louisiana and shall be construed, to the extent that any construction beyond the written plan is necessary, according to the laws of the state of Louisiana or the *Internal Revenue Code* or other federal law, where applicable.

B. If, under any application filed by or on behalf of the plan, the IRS determines that the plan as amended and restated does not qualify under IRC §401(a), and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), the plan administrator may retroactively amend the plan to the earliest date permitted by treasury regulations to the fullest extent that the plan administrator considers necessary to obtain an IRS determination that the plan qualifies under IRC §401(a). Such actions may be taken without further authorization or consent from the plan sponsor, provided amendments are not contrary to state law.

C. If any contribution (or any portion of a contribution) is made by the employer by a good faith mistake of fact, upon receipt in good order of a proper request, the plan administrator or the ORP provider shall return the amount of the mistaken contribution(s), except as limited below, to the employer in accordance with rev. rul. 91-4. The amount of any contribution returned may not exceed the difference between the amount actually contributed and the amount which would have been contributed had there been no mistake of fact and may not include the earnings attributable to such contribution. The amount of the contributions returned must be reduced by any losses attributable to the contribution, and no participant may have his benefit payable hereunder reduced by the return of the contribution to less than such benefit would have been had the returned contribution never been made. The amount of the erroneous contributions will be corrected and returned no later than 30 days after notification of the error if such correction and return can be completed within one year of the erroneous contributions.

D. In any event, any correction under this section shall be made in accordance with the Internal Revenue Service employee plans compliance resolution system (or similar IRS correction program).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2279 (November 2014).

§1529. USERRA

A. Notwithstanding any provisions of this plan to the contrary, contributions, benefits, and service credits with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") and the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), IRC §401(a)(37), and IRC §414(u).

B. For purposes of this Section, the following definition shall apply.

Qualified Military Service (as defined by in chapter 43, title 38, *United States Code*)—the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purposes of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purposes of performing funeral honors duty as authorized by 10 U.S.C. §12503 or 32 U.S.C. §115 if such individual is entitled to reemployment rights under USERRA with respect to such service.

Uniformed Service—the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of Public Health Service, and any other category of persons designated by the President of the U.S. in the time of war or national emergency.

C. An eligible employee whose employment is interrupted by qualified military service under IRC §414(u) or who is on a leave of absence for qualified military service under IRC §414(u) shall be entitled to receive any employer contributions that he failed to receive under the plan as a result of his military service, provided he returns to

employment with the employer upon receiving an honorable discharge from military service and there is no intervening employment outside of the employment with the employer.

D. Effective January 1, 2009, an eligible employee whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of IRC §414(u)(12)(D) from the employer will be treated as an eligible employee of the employer and the differential wage payment will be treated as compensation for purposes of applying the limits on annual additions under IRC §415(c).

E. Effective January 1, 2007, death benefits payable under the plan shall be paid in accordance with IRC §401(a)(37), which provides that in the case of an eligible employee who dies while performing qualified military service (as defined in IRC §414(u)), the survivors of the eligible employee are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan had the eligible employee resumed and then terminated employment with the employer on account of death.

F. Notwithstanding anything in the plan to the contrary, a participant who is a reservist or national guardsman (as defined in 37 U.S.C. §101(24), and who was ordered or called to active duty, after September 11, 2001, for a period in excess of 179 days or for an indefinite period may request, during the period beginning on the date of the order or call to duty and ending at the close of the active duty period, a distribution of all or part of his or her account attributable to salary deferral contributions. The distribution shall be paid to the participant as promptly as practicable after the plan administrator or ORP provider receives the participant's request. If the participant's interest in the plan is invested in more than one of the separate investment options maintained under the plan, a withdrawal of less than the complete balance of the interest shall be withdrawn pro rata from each applicable investment option.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2279 (November 2014).

§1531. ORP Providers

A. In the selection of ORP provider(s) as required by law, the board of trustees will, at a minimum, consider the following criteria in the selection process:

1. portability of the contracts offered or to be offered by the company, based on the number of states in which the designated company provides contracts under similar plans;

2. efficacy of the contracts in the recruitment and retention of employees for the various state public institutions of higher education and higher education boards;

3. nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;

4. relation of the rights and benefits to the amount of the contributions to be made pursuant to the provisions of the plan;

5. suitability of the rights and benefits to the needs and interests of participating employees and employers; and

6. ability of the designated company or companies to provide the rights and benefits under such contracts.

B. The TRSL will enter into a contract with each ORP provider. Effective July 1, 2015, each ORP provider contract shall include the "operational guide for ORP providers" developed by the TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2280 (November 2014).

Chapter 17. Defined Benefit Plan *Internal Revenue Code* Provisions

§1701. Use of Plan Assets

A. At no time shall it be possible for the plan assets to be used for, or diverted to, any person other than for the exclusive benefit of the members and their beneficiaries, except that contributions made by the employer may be returned to the employer if the contribution was made due to a mistake of fact as permitted by revenue ruling 91-4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 41:397 (February 2015).

§1703. Heroes Earnings Assistance and Relief Tax Act of 2008

A. Effective January 1, 2007, 26 U.S.C. 401(a)(37), as enacted by the Heroes Earnings Assistance and Relief Tax Act of 2008, shall apply to the retirement system as provided herein. Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, *United States Code*), to the extent required by section 401(a)(37) of the *Internal Revenue Code*, survivors of a member in a state or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated eligibility or survivor benefits that are contingent on the member's death while employed. In any event, a deceased member's period of qualified military service must be counted for eligibility purposes.

B. Effective January 1, 2009, 26 U.S.C. 3401(h)(2), as enacted by the Heroes Earnings Assistance and Relief Tax Act of 2008, shall apply to the retirement system as provided herein. Beginning January 1, 2009, to the extent required by section 414(u)(12) of the *Internal Revenue Code*, an individual receiving differential wage payments (as defined under section 3401(h)(2) of the *Internal Revenue Code*) from an employer shall be treated as employed by that

employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the *Internal Revenue Code*. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 41:397 (February 2015).

§1705. Domestic Relations Orders

A. If benefits are payable pursuant to a domestic relations order that meets the requirements of section 414(p) of the *Internal Revenue Code*, then the applicable requirements of section 414(p) of the *Internal Revenue Code* will be followed by the retirement system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 41:397 (February 2015).

§1707. Limitations on Contributions and Benefits

A. Adjustments for Form of Benefit

1. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the adjustment under R.S. 11:784.1(B)(3)(a) is applied by either reducing the section 415(b) of the *Internal Revenue Code* limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in treasury regulation section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as described in Subparagraphs A.1.a and b below, as applicable.

a. For a benefit paid in a form to which section 417(e)(3) of the *Internal Revenue Code* does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

i. the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member; or

ii. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5 percent interest assumption (or the applicable statutory interest assumption) and:

(a). for years prior to January 1, 2009, the applicable mortality tables described in treasury regulation section 1.417(e)-1(d)(2) (revenue ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of revenue rulings 2001-62); and

(b). for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the *Internal Revenue Code* (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the *Internal Revenue Code*).

b. For a benefit paid in a form to which section 417(e)(3) of the *Internal Revenue Code* applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

i. the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

ii. the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one-half percent interest assumption (or the applicable statutory interest assumption); and

(a). for years prior to January 1, 2009, the applicable mortality tables for the distribution under treasury regulation section 1.417(e)-1(d)(2) (the mortality table specified in revenue ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of revenue ruling 2001-62); and

(b). for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the *Internal Revenue Code* (notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the *Internal Revenue Code*); or

iii. the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under treasury regulation section 1.417(e)-1(d)(3) (using the rate in effect for the November prior to the one-year stabilization period, which is the limitation year); and

(a). for years prior to January 1, 2009, the applicable mortality tables for the distribution under treasury regulation section 1.417(e)-1(d)(2) (the mortality table specified in revenue ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of revenue ruling 2001-62); and

(b). for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the *Internal Revenue Code* (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the *Internal Revenue Code*), divided by 1.05.

c. The actuary may adjust the Section 415(b) of the *Internal Revenue Code* limit at the annuity starting date in accordance with Subparagraphs A.1.a and b above.

d. Benefits For Which No Adjustment of the 415(b) Limit is Required

i. For purposes of this Section, the following benefits shall not be taken into account in adjusting these limits:

(a). any ancillary benefit which is not directly related to retirement income benefits;

(b). that portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity; and

(c). any other benefit not required under section 415(b)(2) of the *Internal Revenue Code* and treasury regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the *Internal Revenue Code*.

B. Section 415(c) Limitations on Contributions and Other Additions

1. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of $40,000 (as adjusted pursuant to section 415(d) of the *Internal Revenue Code*) or 100 percent of the member's compensation.

a. For the purposes of this Section, the following definition shall apply.

Annual Additions—the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

b. For purposes of applying section 415(c) of the *Internal Revenue Code* and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulation section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under section 414(h) of the *Internal Revenue Code* shall not be treated as compensation.

c. Compensation will be defined as wages within the meaning of section 3401(a) of the *Internal Revenue Code* and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3) and 6052 of the *Internal Revenue Code* and will be determined without regard to any rules under section 3401(a) of the *Internal Revenue Code* that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2) of the *Internal Revenue Code*).

i. However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the *Internal Revenue Code*.

ii. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4) of the *Internal Revenue Code*.

iii. For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of two and one-half months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer.

(a). Any payments not described in Clause B.1.c.iii above are not considered compensation if paid after severance from employment, even if they are paid within two and one-half months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of section 414(u)(1) of the *Internal Revenue Code*) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(b). An employee who is in qualified military service (within the meaning of section 414(u)(1) of the *Internal Revenue Code*) shall be treated as receiving compensation from the employer during such period of qualified military service equal to:

(i). the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or

(ii). if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

iv. Back pay, within the meaning of treasury regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

d. If the annual additions for any member for a plan year exceed the limitation under section 415(c) of the *Internal Revenue Code*, the excess annual addition will be corrected as permitted under the employee plans compliance resolution system (or similar IRS correction program).

e. For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this Subsection shall not exceed the annual limit under section 401(a)(17) of the *Internal Revenue Code*.

C. Service Purchases under Section 415(n)

1. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of section 415(n) of the *Internal Revenue Code* will be treated as met only if:

a. the requirements of section 415(b) of the *Internal Revenue Code* are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of section 415(b) of the *Internal Revenue Code*; or

b. the requirements of section 415(c) of the *Internal Revenue Code* are met, determined by treating all such contributions as annual additions for purposes of section 415(c) of the *Internal Revenue Code*.

2. For purposes of applying this section, the system will not fail to meet the reduced limit under section 415(b)(2)(C) of the *Internal Revenue Code* solely by reason of this Subsection and will not fail to meet the percentage limitation under section 415(c)(1)(B) of the *Internal Revenue Code* solely by reason of this Subsection.

3. For purposes of this Subsection, the following definition shall apply.

a. *Permissive Service Credit*—service credit:

i. recognized by the system for purposes of calculating a member's benefit under the system;

ii. which such member has not received under the system; and

iii. which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

b. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding Clause C.3.a.ii above, may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

4. The system will fail to meet the requirements of this Subsection if:

a. more than five years of nonqualified service credit are taken into account for purposes of this Subsection; or

b. any nonqualified service credit is taken into account under this Subsection before the member has at least five years of participation under the system.

5. For purposes of Paragraph C.4 above, effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the following definition shall apply.

a. *Nonqualified Service Credit*—permissive service credit other than that allowed with respect to:

i. service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in section 415(k)(3) of the *Internal Revenue Code*);

ii. service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in Clause C.5.a.i above) of an education organization described in section 170(b)(1)(A)(ii) of the *Internal Revenue Code* which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

iii. service as an employee of an association of employees who are described in Clause C.5.a.i above; or

iv. military service (other than qualified military service under section 414(u) of the *Internal Revenue Code*) recognized by the system.

b. In the case of service described in Clause C.5.a.i, ii or iii above, such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

6. In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) of the *Internal Revenue Code* or section 457(e)(17)(A) of the *Internal Revenue Code* applies (without regard to whether the transfer is made between plans maintained by the same employer):

a. the limitations of Paragraph C.4 above will not apply in determining whether the transfer is for the purchase of permissive service credit; and

b. the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.

7. For an eligible member, the limitation of section 415(c)(1) of the *Internal Revenue Code* shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was

allowed to be purchased under the terms of a Plan as in effect on August 5, 1997. For purposes of this Paragraph, an eligible member is an individual who first became a member in the system before January 1, 1998.

D. Modification of Contributions for 415(c) and 415(n) Purposes

1. Notwithstanding any other provision of law to the contrary, the system may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in section 415 of the *Internal Revenue Code* by using the following methods.

a. If the law requires a lump sum payment for the purchase of service credit, the system may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the *Internal Revenue Code*.

b. If payment pursuant to Subparagraph a. of this Paragraph will not avoid a contribution in excess of the limits imposed by section 415(c) or 415(n) of the *Internal Revenue Code*, the system may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

E. Repayments of Cashouts

1. Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the retirement system shall not be taken into account for purposes of section 415 of the *Internal Revenue Code*, in accordance with applicable treasury regulations.

F. Limitation of Benefits Priority

1. Reduction of benefits and/or contributions to all defined benefit plans sponsored by the state in which the member participated, where required, shall be accomplished by first reducing the member's benefit under the defined benefit plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans. Necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

G Limitation Year

1. For purposes of applying the limitations of section 415 of the *Internal Revenue Code*, the limitation year shall be the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 41:398 (February 2015).

§1709. Group Trust Participation

A. The board of trustees may, unless restricted by law, transfer assets of the plan to a collective or common group trust, as permitted under revenue ruling 81-100 and revenue ruling 2011-1 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the *Internal Revenue Code*, individual retirement accounts that are exempt under section 408(e) of the *Internal Revenue Code*, eligible governmental plans that meet the requirements of section 457(b) of the *Internal Revenue Code*, and government plans under section 401(a)(24) of the *Internal Revenue Code*. For this purpose, a trust includes a custodial account that is treated as a trust under section 401(f) or under section 457(g)(3) of the *Internal Revenue Code*.

B. For purposes of valuation, the value of the interest maintained by the plan in such group trust shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with generally recognized valuation procedures.

C. The board of trustees may adopt one or more group trust(s) as part of the plan, by executing appropriate participation and/or adoption agreements with the group trust's trustee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 41:400 (February 2015).

Chapter 19. ReNEW Charter Management Organization

§1901. ReNEW Charter Management Organization Employees

A. For purposes of determining membership in the Teachers' Retirement System of Louisiana under R.S. 17:3997, R.S. 11:162, and R.S. 11:701, et seq., membership eligibility, service credit, and return-to-work status shall be determined in a manner consistent with the June 29, 2017, agreement between ReNEW Charter Management Organization and the Teachers' Retirement System of Louisiana. All applicable provisions of Title 11 of the Louisiana Revised Statutes of 1950 shall be construed in accordance with the June 29, 2017, agreement to the extent consistent with the law of Louisiana, the tax qualification requirements applicable to governmental retirement plans under the Internal Revenue Code, as the same may be amended, and any compliance statement rendered by the Internal Revenue Service under the Voluntary Correction Program relating to such agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System, LR 44:1454 (August 2018).

Chapter 21. Uniformed Services Employment and Reemployment Rights Act (USERRA)

§2101. Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA)

A. This Section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 45:762 (June 2019).

Title 58
RETIREMENT
Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 1. Qualified Domestic Relations Orders

§101. Determining Qualified Status of Domestic Relations Orders

A. Intent and Construction. These procedural rules are adopted in order to satisfy the requirements of R.S. 11:291, and shall be construed consistently with this purpose.

B. The purpose of these rules is to establish the trustees' willingness to recognize and enforce any QDRO that meets the requirements set forth herein.

C. It is further intended that the provisions of R.S. 11:291 and 292 be strictly observed. Therefore, the trustees shall not honor the terms of any QDRO:

1. that purports to require the fund to provide any type or benefits, or any option, not otherwise provided under the fund;

2. that requires the fund to provide increased benefits (determined on the basis of actuarial value);

3. that requires payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a QDRO;

4. that requires the payment of benefits to an alternate payee prior to the date the participant terminates employment and his retirement benefits commence; or

5. that allow the alternate payee to elect a form of benefit payable in any manner other than over the life of the participant when the order is presented to the fund after the participant has already begun receiving pension benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1304 (October 1997), LR 30:1685 (August 2004), LR 38:796 (March 2012).

§103. Definitions

A. As used in these procedural rules, unless the context indicates otherwise, the following terms shall have the following meanings.

Alternate Payee—the participant's spouse (or former spouse, child, or other dependent) who is entitled to receive some or all of the fund's benefit payments with respect to the participant under the terms of the QDRO. The same QDRO may identify more than one alternate payee, and several alternate payees may be identified in multiple QDROs. However, the trustees shall not recognize the entitlement of any alternate payee, even if specified in a domestic relations order, if the benefits assigned therein have already been assigned by reason of an earlier QDRO validly served upon the fund.

Domestic Relations Order—any judgment, decree, or order (including approval of a property settlement or community property partition) that:

a. relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant; and

b. is made pursuant to a state domestic relations law (including a community property law);

i. a state court shall actually issue an order, or formally approve a proposed property settlement, in order for it to be recognized by the trustees as a domestic relations order. A property settlement or community property partition signed by a participant and the participant's former spouse, or a draft order to which both parties consent, shall not be considered a domestic relations order until the state authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

Participant—any employee or former employee of an employer in relation to the fund, who is or may become eligible to receive a benefit of any type from the fund, and who is the individual whose benefits under the fund are being divided by the QDRO.

Qualified Domestic Relations Order—a domestic relations order that creates or recognizes the existence of an alternate payee's right (or assigns to an alternate payee the right) to receive all or a portion of the benefits payable with respect to a participant in the fund, provided that the order:

a. clearly specifies:

i. the name and last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order or, in the event the alternate payee is a minor or legally incompetent, the name and address of the alternate payee's legal representative;

ii. the amount or percentage of the participant's benefits to be paid by the fund to each alternate payee, or the manner in which such amount or percentage is to be determined;

iii. the number of payments or the period to which such order applies; and

iv. the name and identity of the fund;

b. does not require:

i. the fund to provide any type or form of benefits, or any option, not otherwise provided under the fund;

ii. the fund to provide increased benefits (determined on the basis of actuarial value);

iii. the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

iv. the payment of benefits to an alternate payee prior to the date the participant terminates employment and begins receiving pension benefits from the fund; or

v. the payment of benefits to an alternate payee in any manner other than over the life of the participant when the order is presented to the fund after the participant has already begun receiving pension benefits.

Trustees—the Board of Trustees for the Firefighters' Pension and Relief Fund for the City of New Orleans, or such person or entity to whom the board has delegated responsibility to make determinations on its behalf under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1304 (October 1997), LR 30:1685 (August 2004).

§105. QDRO Language

A. Many factors should be taken into account by the drafters of a QDRO in determining which benefits to assign to an alternate payee and how these benefits are to be assigned. Because of the complexity and variety of the factors that should be considered and the need to tailor the assignment of benefits under a QDRO to the individual circumstances of the parties, it would be inappropriate for the trustees to propose specific sample language for inclusion in a QDRO. Instead, individual participants and alternate beneficiaries, and their respective attorneys, are directed to collaborate jointly upon the drafting of orders that meet their individual needs. Nevertheless, if so requested, the trustees shall review any proposed order submitted to the fund prior to its submission to the appropriate court for execution and entry, with a view to indicating the trustees' probable determination concerning its status as a QDRO. The trustees are required by law to honor and enforce the terms of any QDRO which meets the conditions specified in these rules and as may subsequently be determined by the applicable statutes and the courts' interpretations thereof.

B. For further guidance concerning those matters that should be considered when drafting a QDRO (e.g., types of benefits, approaches to dividing retirement benefits, form and commencement of payment to alternate payees, and tax treatment of benefits payments made pursuant to a QDRO) the parties are encouraged to consult Notice 97-11 issued by the Internal Revenue Service and appearing in *Internal Revenue Bulletin* 199702 dated January 13, 1997. Additional guidance may be found in the Pension Benefit Guaranty Corporations's booklet entitled *Divorce Orders and PBGC*, which discusses the special QDRO rules that apply for plans that have been terminated and are trusteed by PBGC, and provides model QDROs for use with those plans. The publication may be obtained by calling PBGC's Customer Service Center at 1-800-400-PBGC or electronically via the PBGC Internet site at "http://www.pbgc.gov." However, some or all of the principals there set forth may not apply to this fund by reason of its status as a statutory governmental plan and/or the types of benefits payable under R.S. 11:3361 et seq. Thus the rules and regulations shall supersede the provisions of the IRS Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997), LR 30:1685 (August 2004).

§107. Notice

A. Upon the fund's receipt of a domestic relations order with respect to a participant, the trustees shall promptly give notice of these procedural rules to the participant and to each person specified in the order as entitled to payment of any fund benefits under the order, at the address the order specifies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997).

§109. Determination

A. The trustees shall determine whether a domestic relations order is a qualified domestic relations order within a reasonable time after it is received and shall have the right to require such evidence as they may reasonably need to make the determination.

B. The trustees shall notify the participant and the alternate payee of the determination no less than 30 days before making any payment pursuant to the order, if it is determined to be a qualified order, or within a reasonable time if it is determined not to be a qualified order.

C. The participant may appeal such a determination to the trustees upon written application to the trustees. The participant may review any documents pertinent to the appeal and may submit issues and comments, in writing, to the trustees. No appeal shall be considered unless it is received by the trustees within 90 days after receipt by the participant of written notice of the determination.

D. The trustees shall decide the appeal within 60 days after it is received. If special circumstances require an extension of time for processing, however, a decision shall

be rendered as soon as possible but not later than 120 days after the appeal is received. If such an extension of time for deciding the appeal is required, written notice of the extension shall be furnished to the participant prior to the commencement of the extension.

E. The trustees' decision shall be in writing and shall include specific reasons for the decision, expressed in a manner calculated to be understood by the participant and the alternate payee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997).

§111. Payments Pending Determination

A. During any period in which the issue whether a domestic relations order is a qualified domestic relations order is being determined (by the trustees, by a court of competent jurisdiction, or otherwise), the trustees shall segregate in a separate account in the fund the amounts that would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

1. To the extent that the domestic relations order is determined to be qualified, the fund shall pay the segregated amounts, plus any interest on them, to the person or persons entitled to them according to the terms of the order. In the case of determinations appealed under these procedural rules, the payment shall be made not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

2. To the extent that the domestic relations order is determined not to be qualified, the fund shall pay the segregated amounts, plus any interest on them, to the person or persons who would have been entitled to such amounts without regard to the terms of the order. In the case of determinations appealed under these procedures, the payment shall take place not less than 10 days nor more than 30 days after the issuance of the trustees' disposition of the appeal.

3. To the extent that the issue whether the domestic relations order is qualified is not resolved within 18 months after the fund receives notice of the order, the trustees shall pay the segregated amounts, plus any interest on them, to the person or persons who would have been entitled to these amounts without regard to the terms of the order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1305 (October 1997).

§113. Representative of Alternate Payee

A. An alternate payee, by written notice to the trustees, may designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:501 (June 1990), amended by the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 23:1306 (October 1997).

Chapter 3. Procedural Rules and Regulations of the Board of Trustees

§301. Definitions

Applicant or Claimant—an individual participant applying for a pension, or a surviving spouse or child applying for a survivor pension or death benefit.

Board—the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

Committee—the Pension and Relief Committee.

Participant—an employee of the New Orleans Fire Department who is eligible to and does participate in the Pension and Relief Fund in accordance with R.S. 33:3361 and 3365.

Secretary-Treasurer—secretary-treasurer of the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:685 (August 1990).

§303. Organization, Rules, and Procedures of the Board

A. Organization of the Board

1. Election of President. The board shall, at the regular meeting held after the election of members to the board as set forth in R.S. 33:3362, elect from its members a president for the term of two years, or until a successor is duly elected. If, because of death, resignation or otherwise, the office of president is vacated before the expiration of the term of office, the board shall elect a successor at its next regular meeting.

2. Election of Secretary-Treasurer. The board shall, at the regular meeting held as set forth in §303.A.1, elect solely from the elected members of the board [as set forth in R.S. 33:3363(c)] a secretary-treasurer for a term of two years or until a successor is duly elected. If, because of death, resignation or otherwise, the office of secretary-treasurer is vacated before the expiration of the term of office, the board shall elect a successor at its next regular meeting.

3. There is established, in accordance with R.S. 33:3363, a Pension and Relief Committee consisting of the secretary-treasurer and one or more other members elected from the board.

4. Rules of Order. The board and the committee shall not be bound by any rules of order, evidence, or procedure at its meetings, hearings or investigations, except such as it may itself establish.

B. Rules

1. Adoption of Amendment. These rules may be adopted or amended by the board only after public hearing, as set forth in R.S. 49:953.

2. Effective Date of Amendments. An amendment to the rule shall become effective on the first day of the month following the date of adoption by the board, unless otherwise specifically provided.

C. Meetings

1. At least one regular meeting of the board shall be held each month.

2. Special meetings may be held at times and places specified by call of the president, or three other members of the board.

3. Regular meetings may be held on any day of the month as determined by the board. Notice of the time and place of all regular meetings shall be given in writing to each member of the board by the secretary-treasurer.

4. Five elected members of the board shall constitute a quorum for the transaction of business.

5. The board shall maintain its records at the fund office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:685 (August 1990).

§305. Application Procedure, Initial Determination, and Notice

A. Application

1. All applications for disability pension and relief benefits must be made 45 days in advance of the regular monthly meeting at which the application is to be heard.

2. Application shall be made on a form made available by the board of trustees. A copy of said form follows these rules and is approved as the official form of the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

3. Documentary Evidence. Documentary evidence in support of disability applications shall be submitted in addition to the application, and may be in the form of doctors' reports, medical reports, or any other medical evidence or statements acceptable to the board which the claimant wishes to present to assist the board in making its initial determination of benefits payable in accordance with R.S. 33:3361 et seq. Said documentary evidence shall include a medical report from the department physician.

4. Application for death benefits shall be made on a form provided for by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans. A copy of said form follows and is adopted as the official form of this board of trustees.

5. Surviving Spouses' Applications. In addition to providing medical evidence and any other statements presented to assist the board in making an initial determination, all surviving spouses who apply for pension benefits shall do so on a form furnished by the Board of Trustees of the Firefighters' Pension and Relief Fund. A copy of said form follows and is made part hereof and is adopted as the official form of the board of trustees. In addition, surviving spouses shall furnish the board with a certified copy of the member's death certificate and a notarized affidavit to the effect that the surviving spouse was married to the decedent at the time of his death and has not remarried, and also listing the names of any and all surviving children under 18 years of age. Accompanying this affidavit shall be a certified copy of the marriage certificate of the decedent and surviving spouse, and birth certificates of all children under 18 years of age.

6. Any applicant for a death benefit or survivor pension shall be awarded benefits in accordance with any other rules and regulations adopted by the board from time to time concerning entitlement thereto, and shall abide by any additional requirements set forth thereunder, as applicable.

B. Initial Determination

1. The board of trustees shall meet and make an initial determination on any application filed in accordance with these rules based upon the evidence that is presented by the claimant in support of that application.

2. After the board makes its initial determination, the applicant shall be notified of the board's determination by certified mail, return receipt requested, as to what action the board has taken. In the event the application or any part of it is denied, the member shall be advised of his right to appeal the initial determination of the board of trustees by filing such a request, in writing, within 30 days of the claimant's receipt of the advice of initial determination.

3. If a member files such an appeal, the board shall schedule a hearing within 60 days thereof before the Pension and Relief Committee, established pursuant to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:686 (August 1990).

§307. Hearing Procedures, Appeal, Oath, Testimony, Production of Records and Depositions

A. Hearings before the Pension and Relief Committee

1. The Pension and Relief Committee shall conduct a hearing in accordance with R.S. 49:956 et seq. and these rules. The applicant may represent himself or may be

represented by an attorney or any other person he may designate.

2. Depositions may be used at the hearing conducted by the Pension and Relief Committee, in accordance with R.S. 49:956(6).

3. The Pension and Relief Committee, after hearing all of the evidence and considering all of the facts presented, shall then prepare a recommended decision which shall be submitted to the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans.

4. The recommended decision of the Pension and Relief Committee shall be submitted to the board within 60 days after the close of the hearing, unless, in the committee's determination, intervening circumstances preclude such prompt determination. The board of trustees shall meet to consider said recommendation, and all facts and evidence offered in support thereof, and shall either adopt said recommendation as its own or shall take such other action as it shall determine. Said decision shall be decided within 30 days after the Pension and Relief Committee submits its report, except where further documentation or evidence is required by the board to enable it to reach a decision, or due to any other unforeseeable circumstances. The applicant shall be notified of the decision of the board of trustees by certified mail, return receipt requested.

B. Oaths, Testimony, Production of Records and Depositions

1. The Pension and Relief Committee and each member thereof may administer oaths, subpoena witnesses, and compel production of books and papers pertinent to any investigation or hearing authorized by the board, pursuant to R.S. 49:956. All applications by the claimant for the issuance of subpoenas must be in the hands of the secretary-treasurer of the board of trustees in sufficient time to permit service prior to the date established for the hearing.

2. Whenever a party to a hearing now or hereafter pending before the board desires to take the testimony of a witness who resides outside of the state or who resides within the state but outside the parish of Orleans, or who is unable to attend the hearing, the testimony of the witness, after due notice in writing to the opposing counsel or his party, a copy of which said notice shall be furnished to the Pension and Relief Committee, may be taken in a manner and form as clearly consonant as possible with the provisions of the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:686 (August 1990).

§309. Judicial Review

A. Judicial review of any final decision by the Pension and Relief Committee and/or the full board of trustees shall be reviewable in the District Court of the domicile of the board, as set forth in R.S. 49:964. No such petition for judicial review shall be filed, however, unless and until the applicant shall have first exhausted all internal fund remedies available hereunder, including the filing of an appeal contesting an adverse determination by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans, LR 16:686 (August 1990).

Chapter 5. Direct Rollovers

§501. Requirements

A. Notwithstanding any provision to the contrary, the fund shall permit a direct rollover of an eligible rollover distribution to an eligible retirement plan in accordance with section 401(a)(31) of the *Internal Revenue Code* of 1986 and the terms set forth herein, upon properly completing and filing the appropriate administrative forms.

B. Definitions

Direct Rollover—a payment by this fund to the eligible retirement plan specified by the distributee.

Distributee—includes a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the code, are distributees with regard to the interest of the spouse or former spouse. A distributee also includes, for distributions on and after January 1, 2010, a non-spouse beneficiary properly designated by the member.

Eligible Retirement Plan—an individual retirement account described in section 408(a) of the code, an individual retirement annuity described in section 408(b) of the code, an annuity plan described in section 403(a) of the code, or a qualified trust described in section 401(a) of the code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. An eligible retirement plan also shall include an annuity contract described in code §403(b) and an eligible plan under code §457(b), which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. Effective for distributions made after January 1, 2008, an eligible retirement plan shall also include a Roth individual retirement account or Roth individual retirement annuity described in section 408A of the code.

a. In the case of a non-spouse beneficiary, an eligible retirement plan is an individual retirement account or annuity described in section 408(a) of the code, or section 408(b) of the code ("IRA") or, for distributions made after December 31, 2009, a Roth individual retirement account or annuity described in section 408A of the code, that is

established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of section 402(c)(11) of the code.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under section 401(a)(9) of the code; and

c. any distribution totaling less than $200 during the year.

C. Notice. A distributee entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections and consequences. The notice must be provided within a reasonable period of time before the date of distribution of the pension benefit. The direct rollover notice must be provided to all distributees, unless the total amount of the distribution during the calendar year is expected to be less than $200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:742 (June 1993), amended LR 22:708 (August 1996), LR 38:1011 (April 2012).

Chapter 7. Partial Buy Back and Partial Restoration of Forfeited Credits of Service

§701. Partial Buy Back and Partial Restoration of Forfeited Credits of Service

A. An old or new system member shall partially buy back a portion of his forfeited credits of service and shall do so by satisfying the following requirements, as set forth herein.

1. A member must have returned to employment with the fire department and remain in such employment for a period of four years or more.

2. The amount of a partial buy back, and accordingly a partial restoration of forfeited credits, shall be determined by calculating the amount the member withdrew of his accumulated employee contributions on his initial termination of employment, plus 3 1/2 percent of interest, compounded annually, for each calendar year the member retained his withdrawn accumulated employee contributions, which total amount shall be referred to as the "total buy back amount" (interest shall be prorated for any period less than a calendar year period).

a. The "total buy back amount" shall be prorated by months based on the total years of forfeited credits as follows.

Total Buy Back Amount Total Number of Months of Forfeited Credits	=	Monthly Buy Back Amount for Each Month of Forfeited Credit

b. The annual buy back amount for each forfeited year of credit shall be determined by multiplying the monthly buy back amount by the number of years (a 12-month consecutive period) the member wishes to buy back.

3. A member may restore his total number of years of forfeited credit on a piecemeal basis, provided the member restores at least two or more years of forfeited credit, in increments of 12 consecutive months. A member is prohibited from restoring his forfeited credits of service on a monthly basis and is prohibited from restoring less than two years, unless the restoration of credits is his final restoration request or the restoration request is for his total forfeited credits.

4. A year of credit shall mean a 12-month consecutive period.

5. A member shall elect a partial buy back and partial restoration of forfeited credits of service by completing and filing the applicable forms with the trustees. A member may revoke any election for a partial buy back and partial restoration, provided such revocation is in writing and filed with the trustees.

6. The trustees shall adjust the member's years of credit service as a result of the partial restoration of forfeited credits upon receipt of the annual buy back amount for each year the member elects to restore. Until the full payment of the partial buy back amount is received by the board, no adjustment or restoration of the member's forfeited credits shall be made.

7. A member is strictly prohibited hereunder from receiving his accumulated employee contributions upon his termination of employment in a form other than a full and total lump sum payment.

8. Nothing contained herein shall be interpreted in violation of R.S. 11:3365.C and R.S. 11:3363.C nor shall the provisions hereunder be applied on a discriminatory basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3365.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 19:743 (June 1993).

Chapter 9. Death Benefits

§901. Definitions

A. In accordance with R.S. 11:3378, 3381, and related provisions and/or when used in these rules and regulations, the following terms shall have the following meanings.

Accumulated Contributions—contributions made by an active firefighter through monthly salary deductions. Interest shall accrue as determined by the board.

Active Firefighter—one who is still actively employed and has not yet retired.

Actuarial Equivalent of the Participant's Benefit—the actuarial cost of furnishing a single life benefit to the participant based on his years of service and salary, as defined in R.S. 11:3384 and other applicable statutory provisions.

Children—children of the participant or of the surviving spouse who are dependent upon the firefighter for support [R.S. 11:3378(D)].

Deferred Vested Firefighter—one who is vested by years of service but is no longer employed as a firefighter and is not yet receiving retirement benefits, whether or not he is yet eligible by age to retire.

Dependent or Dependent upon the Firefighter for Support—prior to the firefighter's death, he or she contributed 50 percent or more to the support of said dependent.

Legal Representatives—the person or persons designated in the first of the following classes which is applicable to the deceased firefighter in question:

a. the surviving spouse;

b. the surviving children;

c. the surviving parents;

d. if a succession has been opened, the firefighter's estate or succession;

e. the heirs.

Vested Firefighter—person who has accumulated at least 20 years of continuous service under the new system, in accordance with R.S. 33:3381.

Widow—the surviving spouse to whom the firefighter is married at the time of death.

Widowed Mother—a parent of either sex who has survived the deaths of both the firefighter and the other parent. (R.S. 11:3390).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:183 (February 1994).

§903. Beneficiary Designations and Election of Retirement and Death Benefits

A. At the time a firefighter elects to retire, his spouse, if any, shall be furnished a copy of his retirement application and any beneficiary designation attendant thereto.

B. Any designation of beneficiary made by a firefighter pursuant to the statute shall be made, in writing, by completing the applicable beneficiary designation form required by the board.

C. Whenever a retirement benefit election includes a survivor annuity in any amount, a certified copy of the said survivor's birth certificate shall be furnished as proof of age. The retiree shall keep the board advised at all times of all changes of address of himself and said beneficiary.

D. Each firefighter in the new system and any employee in the old system electing coverage in the new system shall designate a beneficiary, in writing, and deposit it with the board of trustees.

E. Any such designation of beneficiary may be changed at any time prior to retirement but such change shall have no effect until deposited, in writing, with the board of trustees.

F. If a firefighter dies without having designated a beneficiary, in accordance with the statute, and a benefit is payable thereunder, the applicable death benefit shall be paid to the firefighter's legal representatives, as defined herein, in the order defined herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:183 (February 1994).

§905. Calculation of Death Benefits

A. If a death benefit is payable as a result of the death of an eligible participant prior to retirement, the present value of his benefit shall be calculated as if he had retired on the day before he died, except where otherwise indicated in the statute or herein.

B. The fund's actuary shall be required and authorized to calculate all benefits payable, in accordance with such assumptions as he shall have incorporated into the fund's actuarial valuations and reports; and the trustees' reliance upon his calculations of the amounts of retirement and death benefits payable shall be conclusive proof of the reasonableness of the trustees' decisions in this regard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:183 (February 1994).

§907. Preretirement Death Benefits

A. Nonduty Deaths

1. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a nonduty death, and if he had been married for two years or more at the time of his death, the surviving spouse may elect one of the following death benefits:

a. the surviving spouse shall receive an annuity payable for the duration of her life and calculated as if the employee had retired prior to death (R.S. 11:3385, Option 2, penultimate paragraph); or

b. the surviving spouse may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

2. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a nonduty death, and if the firefighter had been married for less than two years or was unmarried at the time of his death, the designated beneficiary may elect one of the following death benefits:

a. the designated beneficiary shall receive an annuity payable for the duration of his or her life and calculated as if the employee had retired prior to death (R.S. 11:3385, Option 2, penultimate paragraph); or

b. the designated beneficiary may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

3. If an actively employed firefighter in the new system or one in the old system electing coverage under the new system, who is eligible by age and service to retire, should die a nonduty death, and if the firefighter had been married for less than two years or was unmarried at the time of his death, and if the firefighter has failed to designate a beneficiary to receive any death benefits payable, a refund of the employee's accumulated contributions, in lump sum, shall be paid to the person or persons who meet the trustees' definition of *Legal Representatives*, as defined in Article I.5 hereof.

NOTE: Where no beneficiary has been designated, the legal representative will receive a refund of the employee's contributions plus interest earned thereon.

4. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a nonduty death, his designated beneficiary may elect payment to the statutory beneficiaries of the benefits set forth in R.S. 11:3378.A(2) and R.S. 11:3378.B or may elect to receive a refund of the employee's contributions.

5. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a nonduty death, and he fails to designate a beneficiary to receive any death benefits payable, a refund of the employee's accumulated contributions, in lump sum, shall be paid to the person or persons who meet the definition of *Legal Representatives*, as defined in Article I.5 hereof.

6. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, who is not eligible by age and service to retire when he suffers a nonduty death, and the firefighter is survived by dependent minor children or physically or mentally handicapped dependent children, each child will receive a death benefit set forth in R.S. 11:3378.A(2).

B. On-Duty Deaths

1. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, the surviving spouse shall elect one of the following death benefits:

a. the surviving spouse shall receive an annuity payable for the duration of her life and calculated as if the participant had survived till he had 20 years service at the same salary and elected to retire under R.S. 33:2117.4, Option 2 with no reduction for age at the date of retirement. The Option 2 calculation shall be based on his age and the age of his widow at the date of death (R.S. 11:3385, last paragraph); or

b. the surviving spouse may alternatively receive a refund of the employee's accumulated contributions, in lump sum.

2. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, and if the employee is unmarried at the time of death, his designated beneficiary may elect one of the following death benefits:

a. the designated beneficiary shall receive an annuity payable for the duration of her life and calculated as if the participant had survived till he had 20 years service at the same salary and elected to retire under R.S. 11:3385, Option 2 with no reduction for age at the date of retirement. The Option 2 calculation shall be based on his age and the age of his designated beneficiary at the date of death (R.S. 11:3385, last paragraph); or

b. the designated beneficiary may elect to receive a refund of the employee's accumulated contributions, in lump sum.

3. If an actively employed firefighter in the new system, or one in the old system electing coverage under the new system, whether or not he is eligible by age and service to retire when he suffers death in the line of duty, and is unmarried at the time of death but has failed to designate a beneficiary, a refund of the employee's accumulated contributions, in lump sum, shall be payable to the person or persons who meet the trustees' definition of *Legal Representatives*, as defined in Article I.5 hereof.

NOTE: Where no beneficiary has been designated, the legal representative shall receive a refund of the employee's contribution plus interest earned thereon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:184 (February 1994).

§909. General

A. A spouse or parent may receive only one pension [R.S. 11:3378.A(1)(2)].

B. Neither a retiree nor a surviving spouse shall receive a pension less than $300 per month (R.S. 11:3383).

C. Once a firefighter has retired and elected an optional benefit under R.S. 11:3385, neither the designated joint annuitant nor the optional form of benefit may be changed. When the survivor designated as a joint annuitant dies, no further survivor benefit shall be payable.

D. No benefit or joint annuity payable under R.S. 11:3385 shall exceed the actuarial value of the participant's benefit.

E. Unless the benefit payable is a refund of the participant's own contributions together with any interest payable thereon or is payable under R.S. 11:3378.B, no lump sum benefits shall be payable by this fund (R.S. 11:155).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3361 and R.S. 11:3378 et seq.
HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:184 (February 1994).

Chapter 11. Calculation of Benefits

§1101. Definitions

A. The term *year* when appearing in the term *best year of service*, R.S. 11:3386 (formerly R.S. 33:2117.5) shall mean any 12-consecutive month period commencing on any day and date preceding the firefighter's retirement that results in the highest average compensation, as defined in §1105.A hereof.

B. The term *year*s when appearing in the term *highest four consecutive years of service*,. R S. 11:3384 (formerly R.S. 33:2117.3) shall mean any four consecutive years ending on any day and date preceding the firefighter's last day of service that results in the *highest four consecutive years of service*.

C. The term *year* when appearing in the term *last year of service*,. R.S. 11:3377.A(1), (2), and (3) [formerly R.S. 33:2113.1.A(1), (2), and (3)], shall mean the consecutive 12-month period ending with the day and date of the firefighter's last day of service prior to retirement.

D. The term *split* when utilized herein in regard to *year* shall mean that the *year* in question is not a calendar year and therefore ends on a day and date other than December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, 3377, and 3384.
HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:785 (July 1994).

§1103. General

A. Under no circumstances shall the terms *average compensation* and *average salary* be interpreted to include more than one annual excess millage payment in any given *year*.

B. Under no circumstances shall a different *year* be utilized for purposes of calculating the value of the different components included in *average compensation* or *average salary*, except in regard to excess millage payments, as specified herein.

C. Under no circumstances shall excess millage paid to a firefighter for any period less than a full calendar year be annualized for purposes of calculating a retirement benefit, nor shall excess millage paid to the firefighter in the calendar year of his retirement be utilized in his benefit calculation unless that calendar year is also a benefit *year*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, 3381, 3385, and 3386.
HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:785 (July 1994).

§1105. Calculation of Benefit Amount

A. *Average compensation*, as appearing in R.S. 11:3386 (formerly R.S. 33:2117.5), for purposes of identifying *best year of service*, and in R.S. 11:3377.A(1), (2), and (3) [formerly R.S. 33:2113.1.A(1), (2), and (3)], for purposes of calculating the benefit attributable to the *last year of service*, shall be the sum of the following components:

1. if the year under review for purposes of calculating the firefighter's retirement benefit is a split year:

a. base pay (including regularly paid millage), overtime, and state supplemental pay earned in the year under review, irrespective of date of payment; plus either §1105A.1.b.i. or ii., as applicable:

b.i. if the excess millage for the last complete calendar year included in the year under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two consecutive calendar years immediately prior thereto, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last such complete calendar year is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage for the last complete calendar year included in the year under review has already been paid, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the last complete calendar year included in the year under review, irrespective of the date of payment;

2. if the year under review for purposes of calculating a firefighter's retirement benefit is a calendar year:

a. base pay (including regularly paid millage) overtime, and state supplemental pay earned in the current calendar year under review, irrespective of the date of payment, plus either §1105.A.2.b.i. or ii., as applicable:

b.i. if the excess millage for the calendar year under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two calendar years immediately preceding that year, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the

firefighter for the calendar year under review is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage for the calendar year under review has already been paid to the firefighter, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the calendar year under review, irrespective of the date of payment.

B. The term *average salary* when appearing in R.S. 11:3384 (formerly R.S. 33:2117.3), for purposes of calculating the highest four consecutive years of service, shall mean:

1. if the four years under review for purposes of calculating the firefighter's retirement benefit begin and end with a split year:

a. base pay (including regularly paid millage), overtime, and state supplemental pay earned in the four years under review, irrespective of the date of payment; plus either §1105.B.1.b.i. or ii., as applicable:

b.i. if the excess millage payable for the last complete calendar year included in the four years under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last complete calendar year included in the four years under review, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last complete calendar year included in the four years under review is higher than that paid for the first complete calendar year utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage amount payable for the last complete calendar year included in the four years under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the last complete calendar year included in the four years under review, irrespective of the date of payment;

2. if the four years under review for purposes of calculating a firefighter's retirement benefit are calendar years:

a. base pay (including regularly paid millage), overtime, and state supplemental pay earned in the four years under review, irrespective of the date of payment; plus either §1105.B.2.b.i or ii:

b.i. if the excess millage payable for the last calendar year included in the four consecutive calendar years under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last calendar year included in the four years under review, irrespective of date of payment Provided, however, that if the excess millage amount eventually paid to the firefighter for the last calendar year included in the four calendar years under review is higher than that paid for the first calendar year included in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

ii. if the excess millage amount payable for the last calendar year included in the four calendar years under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the final calendar year under review, irrespective of the date of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363-3381, 3385, and 3386.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 20:785 (July 1994).

Chapter 13. Service Credit

§1301. Reciprocal Recognition of Credited Service—Reciprocal Benefit

A. In accordance with R.S. 11:142, an employee shall combine his credited service accrued under a public retirement system with his credited service accrued under the Firefighters' Pension and Relief Fund for the City of New Orleans (fund) to receive a reciprocal benefit from the public retirement system and this fund, provided the provisions under R.S. 11:142 and these rules and regulations are satisfied.

1. Definitions

Employee—a firefighter eligible under the Firefighters' Pension and Relief Fund for the City of New Orleans.

Fund—the Firefighters' Pension and Relief Fund for the City of New Orleans.

Public Retirement System—any state, municipal, or parochial retirement or pension system, fund, or program offered within the state of Louisiana, other than this fund, that offers regular retirement, disability retirement, or death and survivor benefits.

Reciprocal Benefit—the prorated retirement, disability, death, or survivor benefit from this fund and a public retirement system, based on the employee's membership service credit actually accrued and credited under each respective retirement system equal to the full benefit payable from each system had the employee satisfied the minimum eligibility conditions under each system for such benefit. The terms and conditions of each retirement system shall apply to determine the employee's reciprocal benefit.

Reciprocal Benefit Application—the application form approved by the board of trustees of this fund. The application form may be obtained from the fund office.

2. Eligibility

a. In order to file a reciprocal benefit application with the board of trustees of this fund, the employee must be

an active member of this fund currently making contributions to this fund. A former employee of this fund may file a reciprocal benefit application with this fund provided he is not actively contributing to this fund or to any public retirement system at the time of the filing of the application, and that this fund is the last system to which he contributed. However, an employee shall not be eligible to receive any reciprocal benefit from this fund or from a public retirement system so long as the employee continues to contribute to this fund or another public retirement system.

b. To receive a reciprocal benefit, the employee must satisfy the following conditions.

i. The employee must satisfy the eligibility requirements of the public retirement system.

ii. The employee must satisfy the eligibility requirements of this fund and must accumulate at least six months of credited service under this fund.

iii. The employee must not have previously received a refund of his employee contributions from this fund or any public retirement system. If an employee has received a refund of his employee contributions, he may repay his employee contributions plus compounded interest at the actuarial rate approved by the board of trustees, from the date of the refund of his employee contributions until the date of repayment.

iv. The employee must file a reciprocal benefit application with the board of trustees of this fund. Any other application form or document shall be unacceptable and void. An employee may rescind, cancel, or withdraw his reciprocal benefit application any time by notifying the board of trustees, in writing, of his rescission, cancellation, or withdrawal of his application.

3. Calculation of Reciprocal Benefit

a. The employee's reciprocal benefit from the public retirement system and from this fund shall be calculated as follows.

i. The terms and conditions of this fund and the public retirement system shall apply as of the date of the employee's date of retirement, disability, or death.

ii. The benefit formula used to calculate the employee's reciprocal benefit from each system shall be the benefit formula in effect under this fund and under the public retirement system on the employee's date of retirement, disability, or death.

iii. The employee's compensation earned and accrued under this fund shall be used to calculate his reciprocal benefit from this fund. The employee's compensation earned and accrued under the public retirement system shall be used to calculate his reciprocal benefit from the public retirement system.

iv. The employee's years of service credit accrued and earned under this fund shall be used to calculate his reciprocal benefit from this fund. The employee's years of service credit accrued and earned under the public retirement system shall be used to calculate his reciprocal benefit from the public retirement system. The following shall apply to determine the years of service credit:

(a). years of service credit shall not be duplicated;

(b). an employee shall not receive more than one year of service credit during a single calendar or fiscal year; and

(c). an employee shall not accrue more than four years of military credit as service credit under this fund and no more than five years of military credit as service credit under both this fund and the public retirement system.

v. If the employee fails to accumulate the required minimum years of service under either this fund or the public retirement system, the employee's reciprocal benefit paid by that system shall be prorated accordingly. The prorated reciprocal benefit shall be calculated based on the employee's years of service actually accrued under that system, divided by the minimum years of service required under that system to receive a benefit.

b. The amount of the employee's reciprocal benefit from both this fund and the public retirement system shall not exceed:

i. 100 percent of the highest average compensation on which the benefit is based under both plans; and

ii. the highest benefit under either this fund or the public retirement system, if all years of service credit accrued under both systems were considered in calculating such benefit under each respective system.

c. If the reciprocal benefit exceeds the above limitation under §1301.A.3.b.i. or ii., then this fund or the public retirement system, if applicable, shall reduce the reciprocal benefit in proportion to the total reciprocal benefit paid from both systems.

4. Coordination of Reciprocal Benefit between This Fund and Other Public Retirement Systems

a. The trustees' approval of an application submitted to this fund for payment of a reciprocal benefit shall be in compliance with R.S. 11:142 and these rules and regulations. Upon approval of the reciprocal benefit application by the trustees, the trustees shall forward the approved application to the appropriate public retirement system in question. The trustees shall coordinate the payment of the reciprocal benefit with the public retirement system in which the employee has accumulated service credit and shall notify the public retirement system when the covered member ceases to be an active member under this fund and is thus entitled to receive a reciprocal benefit due to retirement, disability, or death. The trustees of this fund shall notify all public retirement systems of the amount of the reciprocal benefit payable from this fund and the calculation of such benefit.

b. The trustees of this fund, in their sole and absolute discretion, may agree with the trustees of the public retirement system that the payment of the total reciprocal benefit shall be made by one system and that the other system shall make appropriate reimbursement to the system making the total reciprocal benefit payment.

c. If the reciprocal benefit is payable from both this fund and the public retirement system in a lump sum form of payment, the additional lump sum benefit shall be paid in proportion to the years of credited service accrued under each system that represents the total years of credited service under both this fund and the public retirement system. The total lump sum benefit under both systems shall not be less than the greatest lump sum benefit payable under either this fund or the public retirement system. If the total lump sum benefit is less than the greatest lump sum benefit payable, the system having the greatest lump sum benefit shall pay the difference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 143, and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans and Vicinity, LR 21:566 (June 1995).

§1303. Transfer of Service Credits

A. In accordance with R.S. 11:143, an employee shall transfer any service credits accumulated under a public retirement system to the Firefighters' Pension and Relief Fund for the City of New Orleans (fund), including all employee and employer contributions and interest accrued thereon, at the rate specified herein; or shall transfer any service credits accumulated under this fund to a public retirement system, including all employee and employer contributions and interest accrued thereon, at the rate specified herein.

1. Definitions

Employee—a firefighter eligible under the Firefighters' Pension and Relief Fund for the City of New Orleans.

Fund—the Firefighters' Pension and Relief Fund for the City of New Orleans.

Public Retirement System—the following:

i. any public retirement or pension system, fund, or program offered within the state of Louisiana;

ii. any retirement or pension plan, fund, or program maintained primarily for officers and employees of the state of Louisiana;

iii. any retirement or pension plan, fund, or program maintained primarily for officers and employees of any political subdivision of the state of Louisiana, or any district, board, commission, agency, or any other such public entity of the state of Louisiana.

Receiving System—

i. this fund when it receives service credits accumulated by an employee under another public retirement system; or

ii. the public retirement system when it receives service credits accumulated by an employee under this fund.

Transferring System—

i. this fund when it transfers service credits accumulated by the employee under this fund to another public retirement system; or

ii. the public retirement system when it transfers service credits accumulated by the employee under that public retirement system to this fund.

2. Eligibility

a. An employee may transfer credits from the transferring system to the receiving system upon satisfying the following conditions.

i. The employee must have been a member of the transferring system for at least six months.

ii. The employee must have membership credit in the receiving system at the time the receiving system receives the transferred service credit.

iii. The employee must not have previously received a refund of his employee contributions from either the transferring system or the receiving system. If an employee has received a refund of his employee contributions from this fund, he may repay his employee contributions plus compounded interest at the actuarial rate approved by the board of trustees from the date of the refund of his employee contributions until the date of repayment.

iv.(a). If this fund is the receiving system, the employee must file an application with this fund requesting this fund to receive his service credits accumulated under the transferring system. An application to transfer credits to this fund shall be made on the application form approved by the board of trustees. Any other application form or document shall be unacceptable and void.

(b). If this fund is the transferring system, the employee must file an application with this fund requesting this fund to transfer the employee's service credits accumulated under this fund to the receiving system designated by the employee. An application to transfer credits from this fund shall be made on the application form approved by the board of trustees. The trustees shall accept, in lieu thereof, any similar written application from the receiving system designated by the employee, provided the requisite information is contained therein.

(c). At any time prior to completing the transfer of credit to the receiving system the employee may rescind, cancel, or withdraw his application by notifying the board of trustees, in writing, of his rescission, cancellation, or withdrawal.

3. Transfer of Credits from a Transferring System to This Fund as the Receiving System

a. If an employee transfers accumulated service credits from a transferring system to this fund (receiving fund), the following information with regard to the employee must be furnished to this fund from the transferring system:

i. the total number of credits accumulated by the employee under the transferring system and dates of service, including prior years of service, military service, or any other credit accumulated under the transferring system;

ii. the amount of contributions accumulated under the transferring system attributable to:

(a). employer contributions; and

(b). employee contributions;

iii. an amount of interest equal to the actuarial valuation rate approved by the board of the transferring system, compounded annually, calculated from the year of contribution to the date of the desired transfer of credits attributable to:

(a). employer contributions; and

(b). employee contributions;

iv. the total of all contributions accumulated by the employee under the transferring system, plus interest attributable thereto as specified herein. If the employer contributions referred to under §1303.A.3.a.ii.(a) and §1303.A.3.a.iii.(a) are not at least a fixed percentage of the employee's earnings, the amount of employer contributions shall equal the amount of employee contributions;

v. the job classification, grade, and salary earned under the transferring system as of the date of the last contribution to the transferring system, together with all job classifications and grades held during the time any and all service credit was earned and accrued under the transferring system.

b. Upon receipt of the appropriate information from the transferring system, as set forth above, the following calculations shall be performed:

i. the amount that would have been contributed by the employee, together with a duplicate amount designated as an employer contribution, including interest equal to the actuarial valuation rate approved by the board of trustees of this fund, compounded annually, from the date of the contribution until the date of transfer, just as if all of the employee's service credit had originally been accrued and contributions had been made in accordance with the law governing contributions to this fund;

ii. the total amount that would be transferred to this fund from the transferring system based on the total amount of all contributions and interest earned thereon, as further provided under §1303.A.3.a.

c. If the total of the amount determined under §1303.A.3.b.ii is equal to or greater than the amount determined under §1303.A.3.b.i, the trustees shall approve the transfer of the employee's service credit upon payment of the amount calculated under §1303.A.3.b.ii from the transferring system to this fund.

d. If the total amount determined under §1303.A.3.b.i is greater than the amount determined under §1303.A.3.b.ii, the trustees shall not approve said transfer of service credit unless:

i. the employee pays to this fund the deficit or difference between the sums calculated under §1303.A.3.b.i and §1303.A.3.b.ii, including both employer and employee contributions, plus interest compounded thereon, equal to the actuarial valuation rate approved by the board of trustees of this fund; or

ii. in lieu of paying said deficit or difference, the employee, at his option, may elect to have his transferred service credit prorated under this fund, as calculated by the trustees, based on the amount of funds that would be transferred to this fund from the transferring system, including the amount of all contributions and interest earned thereon, as further provided under §1303.A.3.a. Said election may be made only at the time of transfer.

e. Notwithstanding the above provisions, the trustees shall not approve any application for transfer of credits to this fund from a transferring system unless the assets transferred, as determined under §1303.A.3.b.ii, amount to at least 100 percent of the increase in accrued liability that is occasioned by the employee's transfer to this fund, as calculated by the trustees and their consulting actuaries. However, the trustees shall approve any such application if the employee pays the difference in said accrued liability.

f. Credits transferred to this fund in accordance with §1303.A.3 shall be counted toward the eligibility requirement of 20 years of service under R.S. 11:3381 and R.S. 11:3384 to entitle the employee to a retirement benefit from this fund.

g. If an employee accumulates a combined total of 20 or more years of service credit after the transfer of service credits to this fund from a transferring system, and at such time the employee is continuing to make employee contributions in accordance with the law governing employee contributions to this fund under R.S. 11:3365.A, the employee shall no longer be subject to R.S. 11:3365.A pertaining to employee contributions through salary deductions and shall not be required to submit employee contributions to this fund thereafter. An employee who accumulates more than a combined total of 20 years of service credit after the transfer of credits to this fund from a transferring system shall not be entitled to apply any excess employee contributions resulting therefrom as a credit, refund, or offset against any deficiency or disparity that may result under §1303.A.3, even though the combined total years of service credit, after the transfer of credit to this fund, exceed 20 years of service credit.

h. If the employee had accumulated under the transferring system any free service credit, he may transfer said credit to this fund only upon payment to this fund of the

employee and employer contributions that would have been earned during the same period had the employee been a member of this fund, plus interest compounded thereon, equal to the actuarial valuation rate approved by the board of trustees of this fund from the date the contributions would have been due until the date paid. Said payment must be made at the time of transfer.

i. In calculating the retirement benefit of an employee who transfers service credit to this fund from a transferring system, in accordance with R.S. 11:143 and these rules and regulations, the trustees and their consulting actuary shall use the retirement percentage factor of the transferring system, based on the number of years of service credit transferred.

j. In the event an employee should die after filing with this fund his written application for transfer of credits from the transferring system to this fund, the trustees shall complete the transfer of service credit provided, however, that the application complies with R.S. 11:143 and with these rules and regulations. The trustees shall consider the application completed as of the day before the death of the employee.

4. Transfer of Credits from This Fund as the Transferring System to the Receiving System

a. If an employee transfers accumulated service credits from this fund (transferring system) to the receiving system designated by the employee, the following information with regard to the employee shall be furnished to the receiving system from this fund:

i. the number of credits accumulated under this fund and dates of service, including prior years of service, military service, or any other service credit;

ii. the amount of contributions accumulated under this fund as the transferring system attributable to:

(a). employer contributions; and

(b). employee contributions;

iii. the amount of interest equal to the actuarial valuation rate approved by the board of trustees of this fund, compounded annually, calculated from the year of contribution to the date of the desired transfer of credits attributable to:

(a). employer contributions; and

(b). employee contributions;

iv. the total of all contributions accumulated under this fund as the transferring system, plus interest attributable thereto, as specified herein. If the employer contributions referenced in §1303.A.4.a.ii.(a) and §1303.A.4.a.iii.(a) are not at least a fixed percentage of the employee's earnings, the amount of employer contributions shall equal the amount of employee contributions;

v. the job classification, grade, and salary earned under the transferring system at the date of the last contribution to the transferring system, together with all job classifications and grades held during the time any and all service credit was earned and accrued under the transferring system.

b. If the trustees should receive notification from the receiving system that it has approved said transfer of service credits, the trustees shall transfer to the receiving system the total contributions and interest accumulated thereon, as specified herein.

c. In the event an employee should die after filing his written application with this fund or the receiving system designated by the employee for transfer of service credits from this fund to the receiving system, the trustees shall complete the transfer of service credit provided, however, that the application complies with R.S. 11:143 and with these rules and regulations. The trustees shall consider the application completed as of the day before the death of the employee.

5. General Provisions

a. After an application is completed, this fund, as the transferring system, shall have no future liability with respect to any employee who elects to have his service credits transferred from this fund to a receiving system. Similarly, any transferring system transferring service credits to this fund, as the receiving system, shall have no future liability with respect to any employee who elects to transfer credits to this fund.

b. The trustees shall not consider any request for transfer of a deceased employee's credits if the request is made by his survivor, heir, or estate.

c. In the event an employee completes a transfer of service credit in accordance with R.S. 11:143 and these rules and regulations, and either retires with a benefit or takes a deferred retirement from this fund or from any other public retirement system, and subsequently becomes employed in employment that would otherwise render him eligible to participate in a public retirement system which has previously transferred credit, he shall not be permitted, under R.S. 11:143.H, to become a member of said public retirement system. Accordingly, the trustees shall not permit membership in this fund of any employee who has retired with a benefit or has taken a deferred benefit from any other public retirement system if this fund has previously transferred credits for that employee.

d. The trustees, in their sole and absolute discretion, shall assess an actuarial transfer fee in such amount as they may deem fit and appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 143, and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund of the City of New Orleans and Vicinity, LR 21:566 (June 1995).

§1305. Sick and Annual Leave

A. A member may elect to utilize any sick and annual leave he has accrued for purposes of obtaining additional pension credits.

B. A member may also elect at any time prior to retirement to utilize annual leave in excess of the "use it or

lose it" leave limitations established by rules of the New Orleans City Civil Service Commission during any period of time allowed by City Civil Service Commission action for the "rolling over" of such excess annual leave to avoid forfeiture. Such excess leave may be used to obtain additional pension credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:294 (February 2000), amended LR 33:1343 (July 2007).

Chapter 15. Deferred Retirement Option Plan

§1501. Definitions

A. In connection with R.S. 11:3385.1 and when used in these rules and regulations, the following terms shall have the following meanings.

Board or Board of Trustees—the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans.

Covered Employment—service pursuant to R.S. 11:3361 as a firefighter employed by the fire department of the city of New Orleans actively engaged in the extinguishment of fires.

Creditable Service—pension credits accrued in the fund by a member on the basis of services rendered in covered employment. Solely for purposes of eligibility in the DROP, creditable service shall include service credit reciprocally recognized under R.S. 11:142.

DROP—established in R.S. 11:3385.1 for eligible members of the Firefighters' Pension and Relief Fund for the City of New Orleans.

DROP Account—an individual member's accumulation of monthly service retirement benefits payable to him by the fund during a period of DROP participation in accordance with the member's service retirement benefit election.

Fund—the Firefighters' Pension and Relief Fund for the City of New Orleans.

Fund DROP Account—the bank account held by the fund on behalf of all participating DROP members in which are deposited the monthly payments payable on behalf of each member for his individual DROP account during his participation in the DROP.

Member—a firefighter employed by the fire department of the city of New Orleans who is actively engaged in extinguishing fires, or is otherwise eligible pursuant to R.S. 11:3361 to participate in the fund.

Qualified Domestic Relations Order or QDRO—an order issued by a court of competent jurisdiction recognized and approved by the board pursuant to its rules and regulations relating to QDROs as requiring the board to make payment of a part or all of a member's retirement benefit to an alternate beneficiary.

Retired Member—a former member receiving retirement benefits from the fund, but not including a DROP participant who is not yet eligible to receive a distribution from his DROP Account.

Service Retirement Benefit—the vested benefit of a member payable from the new system under R.S.11:3384 or from the old system under R.S. 11:3381.

Year of Creditable Service—a period of 12 consecutive months of pension credit accrued in the fund by a member on the basis of services rendered in covered employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:703 (August 1996), amended LR 26:290 (February 2000).

§1503. Eligibility

A. In order to satisfy eligibility to participate in the DROP, the member shall satisfy the following conditions.

1. The member shall have accrued not less than 20 years of creditable service, including not less than 15 years of creditable service accrued in this fund, plus any reciprocal credit reciprocally recognized by the board under R.S. 11:142.

2. The member shall satisfy all eligibility requirements for a service retirement benefit.

3. The member shall file with the board and the board shall approve the member's service retirement benefit application.

4. The member shall file and the board shall approve the member's DROP enrollment application.

5. By submitting a DROP enrollment application, the member shall automatically elect to participate in the DROP for the full five-year period. Nonetheless, the member may exit the DROP at any time by filing with the board an application to withdraw from the DROP, effective upon the board's approval.

B. A member may participate in the DROP only once, except as otherwise provided in §1505.T.

C. The member's application to enter the DROP shall request retirement on the first day of a calendar month and shall specify a requested effective date no earlier than the first day of the second calendar month following the calendar month in which the DROP enrollment application is submitted. The service retirement application and the DROP enrollment application shall not be submitted to the board for consideration and approval until such time as all required and requested data, documentation, and information have been submitted to the board in order to complete both the service retirement and the DROP enrollment applications. Such participation shall be limited to a maximum period of five years, i.e., 60 calendar months, as to each individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:703 (August 1996), amended LR 26:290 (February 2000).

§1505. Participation in and Withdrawal from the DROP

A. The effective date of a member's entry into the DROP shall be the first day of the second calendar month following the calendar month in which the member initially files his DROP enrollment application, providing, however, that:

1. the member has completed submission of any and all requested data, documentation, and information to the board in connection with the DROP enrollment application and the service retirement application no later than the seventh of the first calendar month (or the first work day following this date if the seventh of the first calendar month falls on a holiday or weekend) following the submission date; and

2. the board has considered and formally approved said applications prior to the requested effective date.

B. Upon the effective date of the member's DROP participation, the fund shall distribute monthly benefit payments pursuant to the member's service retirement award into the member's DROP account.

C. Upon a member's commencement of participation in the DROP, his membership in the fund shall terminate and he shall accrue no additional creditable service during DROP participation.

D. No employer contributions shall be made to the fund on behalf of a member participating in the DROP, nor shall the member be required to make employee contributions to the fund.

E. A member's compensation and creditable service shall be frozen when the member enters participation in the DROP and shall thereafter remain as they existed on the effective date of the member's commencement of participation in the DROP.

F. A member participating in the DROP shall not be eligible to receive the cost-of-living adjustments awarded by the fund from time to time to retired members. Eligibility for cost-of-living adjustments shall not commence until the member has been separated from covered employment for one full year.

G A member's DROP account shall not be charged, debited, or assessed any fees, charges or similar expenses of any kind for any purpose, nor shall the account be subject to diminution based on valuation or earnings losses of any kind during the member's participation in the DROP. In addition, no such fees, charges, losses, or other similar charges shall be charged, debited, or assessed against the member indirectly, during the member's participation in the DROP.

H. A member's DROP account shall not earn or accrue any interest, gains, or earnings of any kind, nor shall the member accrue such earnings indirectly, during his DROP participation. Upon completion of participation in the DROP, and regardless of whether the member terminates employment with the fire department, the DROP account will earn interest each year based on a five-year rolling average of the composite rate of return of the pension fund, minus an administrative fee of no more than 2 percent, to be deducted from the member's DROP account each year.

I. Pursuant to R.S. 29:415.1, a member shall not accrue any military service credit or pension credit based on military service performed during a member's participation in the DROP.

J. The duration of participation in the DROP shall not exceed a period of five consecutive years, i.e., 60 consecutive calendar months, measured from the effective date of commencement of participation in the DROP.

K. A member may terminate his participation in the DROP to be effective as of the last day of any calendar month prior to the end of the maximum five-year period by filing with the board of trustees of the fund a DROP withdrawal application, providing the DROP withdrawal application is submitted to the board no later than the last day of the previous calendar month. Nevertheless, in the event the board determines, based on all facts and circumstances at issue, that justice so requires and equity so warrants, the board shall be fully authorized, entirely in its discretion, to approve termination of a firefighter's participation in the DROP effective upon a date earlier or later than would otherwise apply.

L. If a member participating in the DROP does not terminate his covered employment upon completion of five years of participation in the DROP or upon the effective date of his approved withdrawal prior thereto, payment of the member's service retirement benefit into the member's DROP account shall automatically cease. In the event the member has failed to notify the board of his intent to continue in his covered employment after the effective date of his DROP completion, the board shall notify the member, in writing, at his last known address, that the fund has ceased monthly payments into his DROP account.

M. If the member should die during his period of participation in the DROP, a lump sum payment of the balance in the member's DROP account shall be paid to his designated beneficiary, or if none, to his estate upon written application to the fund office. Any additional survivor and/or death benefits payable to the member's beneficiary or beneficiaries, in accordance with the member's individual retirement election, all applicable statutory provisions, and the board's rules and regulations pertaining to death benefits, shall also be subject to distribution.

N. No distribution shall be made from a member's DROP account until the member's covered employment has been fully terminated. A member's DROP account shall not be distributable at any time during the member's DROP participation or at any time prior to the member's separation from covered employment, even if the member has exited from the DROP.

O. Upon termination of covered employment, distribution of the member's DROP account may be made as a one-time lump sum payment, in a series of periodic or non-periodic payments, or as a partial lump sum payment with periodic distributions of the balance, all as allowed herein. Allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55. Direct rollovers are subject to the fund's current rules and regulations and IRS guidelines.

1. Members Retiring before the Calendar Year in which the Member Reaches Age 55

a. A member who does not rollover his DROP account may withdraw 100 percent of his account balance at any time after termination of covered employment upon written notice to the fund office. For a member who retired before the calendar year in which the member reached age 55, and who is at the time of the distribution under age 59 1/2, the distribution of the member's taxable portion of his account balance will be subject to an early distribution penalty of the IRS equal to 10 percent of the taxable distribution.

b. A member may elect to receive his DROP account balance (including both taxable and non-taxable portions), as a series of equal periodic (at least annual) payments over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. Such periodic distributions over life expectancy are not subject to the 10 percent early distribution penalty; however, the distributions are subject to normal taxation on the taxable portion.

i. Upon the member's attainment of age 59 1/2 the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrence of the 10 percent early distribution penalty until the member reaches age 70 1/2 at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in Subsection P herein.

c. A member may elect to receive 100 percent of the non-taxable portion of his DROP account in one lump sum payment, and the balance of the DROP account as a series of equal periodic payments (at least annual) over the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and his designated beneficiary. No 10 percent penalty is assessed on this type of distribution.

i. Upon the member's attainment of age 59 1/2 the equal periodic distributions may be terminated, and the member may elect to receive any form of distribution without incurrence of the 10 percent early distribution penalty until the member reaches age 70 1/2, at which time mandatory distributions over the member's and/or beneficiary's life expectancy must commence, as provided in Subsection P herein.

d. A member may elect to receive his distribution in a manner other than a series of equal periodic payments based upon his and/or his beneficiary's life expectancy; however, if the member is under age 59 1/2 at the time of such a non-periodic distribution of a taxable amount of the DROP account, any such distribution will be subject to a 10 percent early distribution penalty, as well as a recapture penalty. The recapture penalty provides for a 10 percent additional tax on all taxable distributions received by the member since retirement, inclusive of monthly retirement benefits and any prior distributions from the member's DROP account.

i. Non-periodic distributions may be made no more than four times in a calendar year, and then only on the first day of each fiscal quarter (March 1, June 1, September 1 and December 1). All non-periodic distributions must be a minimum of $1,000. For any distribution, the member must provide the fund office with written notice no later than 30 days prior to the first business day of the fiscal quarter.

2. Members Retiring during or after the Calendar Year in which the Member Reaches Age 55

a. Any member terminating covered employment during or after the calendar year in which the member reaches age 55 may elect any of the options available under Subparagraph O.1 above without being subject to the 10 percent early distribution penalty or recapture penalty. All other rules regarding non-periodic payments apply. In order for the fund to comply with federal law regarding the mandatory commencement of retirement benefits, distributions from a member's DROP account must commence no later than April 1 of the calendar year following the calendar year in which the member reaches age 70 1/2. These minimum distributions are accomplished by a monthly DROP distribution which is calculated to distribute the entire balance of a member's DROP account over a period not extending beyond the life expectancy of the member or the joint life expectancy of the member and his designated beneficiary. Distributions above those which are mandatory are allowable, subject to the fund's current rules.

i. Members terminating covered employment during or after the calendar year in which the member reaches age 55, who are now over age 70 1/2, are eligible to receive distribution of all or any portion of the DROP account exceeding the mandatory distributions, subject to fund's current rules.

P. Members and their beneficiaries may defer receipt of a distribution from the DROP account indefinitely, subject to the Internal Revenue Service's mandatory distribution rules.

Q. Upon termination of covered employment, the member may file an application with the board requesting distribution of his DROP Account on the first day of any calendar month following the calendar month of termination. Provided, however, that the requested distribution date shall be no earlier than the second calendar month following the calendar month of termination.

R. In the event a member validly elects to rollover all or any part of his DROP distribution to a qualified plan or an individual retirement account, said distribution shall not be made until at least 30 days after the member has acknowledged, in writing, receipt of the applicable explanation to employees and notice relating to rollover, direct rollover, income averaging treatment, and tax consequences upon distribution, or compliance with any timeliness requirement subsequently established by applicable law, if different. Any such election shall be made in compliance with the board's rules and regulations of direct rollovers and all applicable provisions of the *Internal Revenue Code* then effective.

S. Upon termination of covered employment, the monthly benefits that were formerly paid into the member's DROP account during his period of participation shall be paid directly to the retired member.

T. The member shall not be permitted to change, revoke or rescind the retirement benefit distribution option selected and/or the beneficiary or beneficiaries he designated upon entering into the DROP regarding his service retirement benefit nor shall any such change be permitted at the time the DROP account is distributed. However, a member who is participating or has participated in the three-year DROP and has continued in active employment with the fire department, may elect, on or before December 31, 1999, either to extend his participation in the DROP for the remainder of the five-year period beginning on the date he entered the DROP, or to revoke his participation in the DROP. In the event the member elects to extend his participation in the DROP, any period of time he has been out of the three-year DROP will be included in calculating the five-year DROP period. In the event the member elects to revoke his three-year DROP participation, the member's entire DROP account, including any interest earned, will be returned to the fund, and the member will be placed in the same position as if he had never elected to participate in the DROP. The member will be considered to have been an active employee in the system, and all creditable service and compensation earned during the period of the revoked DROP participation will be credited toward the member's new benefit calculation. If the member chose any option other than the single life annuity when he originally entered the DROP, his spouse must consent to the revocation and any subsequent election, other than a joint and survivor annuity option. However, no action by the member nor decision by the board may circumvent a previously approved QDRO.

U. If the member does not terminate his covered employment upon completion of the maximum five-year participation period or upon such earlier date as the member has specified for withdrawal:

1. monthly service retirement benefit payments into the DROP account shall cease; and

2. the member shall resume active membership in the system; and

3. the member shall commence accrual of additional creditable service under the system; and

4. the member's DROP account will begin to earn interest each year based on a five-year rolling average of the composite rate of return of the pension fund, minus an administrative fee of no more than 2 percent, which will be deducted from the member's DROP account each year. The interest rate will be determined by the fund actuary at the end of each calendar year, but will be effective beginning the subsequent fiscal year (July 1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:704 (August 1996), amended LR 23:1145 (September 1997), LR 26:293 (February 2000).

§1507. Post-DROP Accruals and Retirement Benefits

A. If a member continues in covered employment after termination of his participation in the DROP, the member shall accrue a second retirement benefit based on his additional covered employment performed following the date of termination of his DROP participation, using the normal method of computation of benefits, subject to the following conditions.

1. New System Member

a. If the member originally retired from the new system, and his period of additional covered employment after termination of DROP participation is less than 48 months, the average compensation figure used to calculate the additional benefit accruals shall be that used to calculate the member's original benefit.

b. If the member originally retired from the new system, and his period of additional covered employment after termination of DROP participation is 48 months or more, the average compensation figure used to calculate the additional benefit accruals shall be based on the member's compensation earned during the period of post-DROP service.

2. Old System Member

a. If the member originally retired from the old system and his period of additional covered employment is less than 12 months, the average compensation figure used to calculate the additional benefit shall be that used to calculate the member's original benefit.

b. If the member originally retired from the old system and his period of additional covered employment is 12 months or more, the average compensation figure used to calculate the additional benefit shall be based on the member's compensation during the period of additional service.

3. If the member was first employed before December 31, 1967 but originally elected to retire from the new system, that election shall also apply to and determine the additional benefits accrued for post-DROP service.

B. The distribution option under R.S. 11:3385 originally selected by the new system member upon entering into the DROP shall also apply to any additional benefits accrued during the period of additional covered employment.

C. The beneficiary designated by the member upon entry into the DROP shall also be the beneficiary or beneficiaries designated in connection with the additional benefits accrued; however, in the event the member's designated beneficiary has predeceased the member, the member may designate a new beneficiary or beneficiaries for purposes of the additional retirement benefit only.

D. If, following a period of additional covered employment performed after leaving the DROP, the board determines that the member is disabled pursuant to R.S. 11:3376 and is therefore eligible to receive a service-connected disability benefit, the following terms and conditions shall apply.

1. The amount of the service-connected disability benefit shall be in the same amount and calculated as a service retirement benefit based only on the credited service accrued subsequent to the date of the member's termination of participation in the DROP.

2. The fund shall distribute to the member, upon his written application to the fund office, a lump sum payment in an amount specified by the member. Provided, however, that the member may not elect to withdraw an amount less than $1,000, or more than the balance in his DROP account at the time the application is filed with the board of trustees.

3. The member's monthly benefit payments attributable to both the original and the additional benefits shall be paid directly to the retiree.

4. All monthly benefits paid and payable to the member, as well as his DROP account balance, shall be classified by the fund as service-connected disability benefits and shall be so reported on all necessary filings made by the fund to the Internal Revenue Service.

5. Under no circumstances shall the original benefit amount or the DROP account balance be recalculated, for any purpose.

E. In no event shall the member's additional retirement benefit exceed an amount which, when combined with the original benefit, equals 100 percent of the average of any three highest consecutive years of compensation earned by a member who elected to retire under the old system, or 100 percent of the average of any four highest consecutive years of compensation earned by a member who elected to retire under the new system, both during participation and after withdrawal from the DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:705 (August 1996), amended LR 26:294 (February 2000).

§1509. Trustees' Procedures Applicable to Payments to DROP Accounts

A. The procedures herein set forth shall govern the monthly payments owed by the fund to each member's DROP account during his participation in the DROP.

B. The board shall maintain a detailed accounting of each individual DROP account on behalf of each member currently participating in the DROP. Each month that a payment is due on behalf of the member, the board shall show a credit to the member's account and shall maintain a current balance showing the total credit to each member's account. At such time as the balance maintained in an individual member's DROP account shall exceed $95,000, the board shall make all subsequent monthly payments directly to a separate fund bank account to be known as the excess DROP account to be established at a bank other than the fund's then current custodian bank in order to preserve full FDIC pass-through insurance for all participating members. An accounting of all such deposits exceeding $95,000 per member and the balance to the credit of each such individual DROP participant in the separate excess DROP account shall be maintained. The sum of the participant's balances in both banks, plus any accrued earnings, less any applicable administrative fee, shall be the total to be distributed to the Participant at such time as a distribution is due.

C.1. Old System. At such time as the board furnishes to the city of New Orleans the required annual report, pursuant to R.S. 11:3375, of projected retirements, distributions, and other data necessary for the council to appropriate a budget allocation for each subsequent year, the board shall include in such projections all benefit obligations projected by the board relative to members retiring from the old system and entering or remaining in the DROP and shall include the projected monthly payments payable to fund DROP accounts for the benefit of all DROP participants.

2. New System. In regard to those members retiring under the new system, at such time as the fund's actuary certifies, pursuant to R.S. 11:3363.D, the annual amount of contributions required to be paid by the city of New Orleans for the subsequent year in order to maintain the new system on an actuarial basis, the fund actuary shall include therein actuarial projections relative to all anticipated benefit obligations projected for members retiring from the new system and entering or remaining in the DROP and shall include the projected monthly payments payable to fund DROP accounts for the benefit of all DROP participants.

D. When a member enters the DROP, a book transfer shall be made each month of the payment owed by the fund to each DROP participant until such time as the balance in the member's DROP account reaches $95,000. Thereafter, the board shall cause a payment to be made each month from regular fund assets to the excess DROP account on behalf of that member, representing the amount of his monthly service retirement award.

E. The board shall maintain complete accounting records documenting all payments, receipts, and distributions to and from the fund's excess DROP account, as well as a detailed

record of the amount held and accumulated in each member's individual DROP account on behalf of each individual participant in the DROP, and the dates of all transactions related thereto. Nevertheless, all payments to the excess DROP account for the benefit of DROP participants shall be maintained in a joint account for all members, and the board shall not maintain individual or segregated bank accounts on behalf of each member.

F. The fund's actuary shall record in his annual actuarial valuation performed on behalf of the fund relative to the old and the new systems the amount of assets held each year in the excess DROP account for the benefit of all members currently participating.

G On an annual basis, or more frequently should the board so determine, all earnings accrued in the excess DROP account shall be transferred from the excess DROP account to the fund's general bank account, to be invested or utilized as a general asset of the fund. However, an accounting of all interest earned by the DROP account of any member whose DROP participation has terminated, but who has not yet received a distribution of the full amount of his DROP account, shall be made no less frequently than annually.

H. No payments, disbursements, or deductions of any kind shall be made from the assets held in the excess DROP account other than distributions owed to individual members or their beneficiaries and the transfer of earnings held in the excess DROP account to the fund's general assets, as described in §1509.G

I. All costs, expenses and fees payable in connection with DROP participation and/or maintenance of excess DROP account during a member's DROP participation, including any bank charges associated with the maintenance thereof, shall be paid, if an when due, only from the fund's general assets and from bank accounts other than the excess DROP account. However, upon a member's completion of DROP participation, regardless of whether he terminates employment with the fire department, his DROP account, if left with the fund, will be charged an administrative fee of up to 2 percent per year.

J. All assets held either in the fund's general account or in the excess DROP account on behalf of DROP participants shall be held, recognized, and treated as fund assets until such time as distributions approved by the board are made therefrom. No individual member participating in the DROP, or any person claiming through him, shall have any personal ownership, interest, or entitlement in any fund account, including the excess DROP account, until such time as a distribution is made to or on his behalf by the board.

K. All DROP assets held in the fund's general account or in the excess DROP account shall be exempt from seizure, levy, sale, garnishment, attachment, or any other process whatsoever, and shall be exempt from state and municipal taxes, except as follows.

1. The board shall honor all QDROs recognized by the board as valid pursuant to its procedural rules and regulations for determining status of qualified domestic relations orders, in accordance with the terms, conditions, and effective dates specified in each such individual order.

2. The board shall honor any such levy, garnishment, or other process validly served upon it in the event the board determines, based on advice of its counsel, that the process in question is based on statutory, administrative, judicial, or other authority or precedent that preempts and/or supersedes the provisions of R.S. 11:3389.

L. At such time as distributions are made by the fund to participants, beneficiaries, or other persons claiming through them, the payments shall be subject to federal, state, and municipal taxation, and to levy, garnishment, seizure, sale, attachment, or any other process whatsoever that is applicable to any other distribution or payment made to a retired member. However, any distribution of the balance contained in a member's DROP account shall also be subject to federal income tax and withholding treatment under the rollover provisions of the *Internal Revenue Code*, the regulations issued thereunder by the Internal Revenue Service, and the board's rules and regulations of direct rollovers, in the event the member or a qualified beneficiary should elect rollover treatment.

M. In the event a DROP participant has failed to keep the fund advised of his current address and whereabouts at a time when a distribution is due from the member's DROP account, the fund shall forward the distribution to the member's last known address, via certified mail. If said mailing is returned to the fund, the fund shall hold said mailing and check in the participant's file until such time as the board receives additional information sufficient to permit distribution. Any such distribution shall be made as a direct payment to the individual member, unless the member shall have validly elected to make a direct rollover to a qualified plan or a financial institution, in which event said election shall be honored.

N. If the board is unable to effect the required distribution because of the member's failure to advise the fund of his current address, or for any other reason not directly attributable to the fund's intentional action or inaction, neither the fund nor the board shall be responsible or liable for any loss, prejudice, expense, or other consequences, including tax liability or consequences, attributable to the fund's inability to distribute. No matter how long the board is required to hold the distribution due to such member failure, no interest, gains, or earnings of any kind shall be payable thereon.

O. At such time as a participant requests or the fund is required to effect any distribution of a member's DROP account balance, the board shall furnish to the member the applicable notice and explanation to employees relating to direct rollover, income averaging treatment and tax consequences upon distribution required under *Internal Revenue Code* §402(F) and Internal Revenue Service Notice Number 92-48, such notice to be furnished in accordance with the time delays and other requirements therein specified, as amended from time to time. Currently said statutory provisions and Internal Revenue Service Notice require that the notice and explanation to employees be furnished no later than 30 days prior to the date the DROP account is distributable.

P. Neither the board nor the fund shall give, distribute, or offer to any member or participant on the fund's behalf any advice, counseling, or information concerning taxability and tax consequences, or financial information pertaining to DROP distributions, other than the general summation reflected in the fund's explanation and notice to employees. Instead, the fund and the board shall advise the member that the rules applicable to distributions of lump sum amounts for a member's DROP account are complex and confusing and may prompt the member, in his individual discretion, to seek advice from a competent professional tax advisor or from the member's local Internal Revenue Service office, which, from time to time, may distribute publications relative to retirement distributions and related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:706 (August 1996), amended LR 26:294 (February 2000).

§1511. General

A. Consistent with the provisions of R.S. 11:3361 et seq., the board shall have full and complete authority and discretion to determine the eligibility of any member to enter the DROP and to receive a DROP distribution and to make any other determinations pertaining thereto, consistent with all applicable statutory provisions, applicable jurisprudence published thereunder, and all rules and regulations adopted by the board from time to time, including these rules and regulations pertaining to the DROP.

B. Should the board determine that a member is ineligible to participate in the DROP or should it make any other determination pertaining to the DROP that is considered by the member, a beneficiary, legal representative, or other person claiming through the member to be adverse or in any way prejudicial, the injured person shall be entitled to pursue an appeal before the board in accordance with the appeal procedures set forth in the fund's summary plan description. At the time any decision is issued to the board member, whether or not the board considers it to be adverse to the claimant, the claimant shall be advised, in writing, of such entitlement to request rehearing and of the time delays and other requirements to be observed in connection therewith.

C. No member, beneficiary, legal representative, or other person claiming through the member shall be entitled to pursue judicial review of any board determinations reached in regard to DROP entitlement and other issues pertaining to DROP participation, exit from the DROP, benefit distributions from the DROP, and related matters unless the claimant shall first have exhausted all internal fund appellate and review procedures and the board has issued a final decision, and then only in accordance with applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363 and 3385.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 22:707 (August 1996).

Chapter 17. Election Rules

§1701. Nominations

A. Election for positions on the board of trustees as described in R.S. 11:3362(A)(2) and (3) will be held in the second week of December every two years on odd numbered years. Elected members will be seated on the second Wednesday in January of the following year.

B. Notices for nomination will be carried in monthly fund minutes, beginning in August of any election year.

C. Nominations for vacant positions will be accepted from eligible members in writing during the second week in November (Monday-Friday, 9 a.m.-4 p.m.) in the fund office. The fund office will forthwith notify all nominees of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1703. Election Committee

A. All members nominated for the board will automatically become members of the election committee for the election in which they have been nominated. The committee will serve until the next election is held. On the Wednesday following the close of nominations, the election committee will meet to review all the rules of the election. The committee can discuss procedures but will not have the authority to change any rules for any election. Any committee member may offer recommendations or rule changes for any subsequent election, which shall be recorded in the minutes of the committee or a special report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1705. Ballot Procedure

A. Ballots with security envelopes and return envelopes will be mailed out on the fourth Monday in November, subject to the following controls.

1. Outgoing postage receipt of total mailing will be kept at the pension office.

2. The listing of all members mailed ballots will be kept at the pension office. Any member may inspect, but not copy, the voter mailing list.

3. The election committee will make available to members with the number of names added to the list after the initial mailing and the number of duplicate ballots mailed to members who did not receive the original ballot.

4. The election committee will account for all ballots (used and unused).

B. All ballots must be returned, signed, no later than 4 p.m. on the second Wednesday in December, subject to the following controls.

1. Ballots will be verified for eligibility by pension office staff daily.

2. The election committee will have authority to check for eligibility prior to counting of ballots.

3. A current account of envelopes returned will be preserved.

4. Ballots will be placed in two secured ballot boxes at the pension office. Separate boxes will be maintained for active and retired members.

5. Each ballot box will be secured with two different locks. The election committee will designate two incumbent members and two non-incumbent member nominees to control the keys to all four locks.

C. The following voting instructions and procedures shall apply.

1. Each member will receive an official ballot with voting instructions.

2. A blank security envelope and a self-addressed stamped envelope addressed to:

Firefighters' Pension and Relief Fund
329 South Dorgenois Street
New Orleans, LA 70119

3. Members must vote for only the specified number of candidates in the appropriate sections. Members may vote for less than the specified number, however, voting in excess of the specified number, in the appropriate section, will spoil the ballot for that section.

4. Members should place their ballot in the security envelope, then seal the envelope. The security envelope should then be placed inside the self-addressed, stamped envelope.

5. Members must sign the self-addressed envelope in the upper left corner in the space provided. A member's signature shall serve as proof of eligibility. Any envelopes not signed will be rejected.

6. All ballots must be returned signed, to the fund office, no later than 4 p.m. on the second Wednesday in December.

D. All ballots will be counted at the fund office at 9 a.m. on the Thursday following the deadline for ballots to be returned, subject to the following conditions.

1. The election committee shall report to the pension office no later than 8:30 a.m.

2. The election committee is to oversee the counting of ballots.

3. The election committee is responsible for accuracy of votes counted.

E. Envelopes and ballots will be maintained and preserved at the pension office for three months following any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1707. Installation of Elected Members

A. Newly elected board members will be seated at the meeting held on the second Wednesday in January of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1709. Election Inquiries

A. Any questions from members regarding the election should be directed to the election committee, in writing, addressed care of the fund secretary-treasurer.

B. The election committee may propose comments, suggestions and recommendations on any changes for the next election to be held following the election under its supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1711. Special Elections

A. Special elections must be called within 30 days of any vacancy on the board, caused by death, resignation or otherwise. The foregoing rules for regular elections shall apply to all special elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

Chapter 19. Partial Lump-Sum Option Payment

§1901. General Rules for Participation

A. Upon application for retirement, a participant may elect to receive the actuarial equivalent of his retirement benefit as a reduced monthly benefit, payable for life, plus an initial lump-sum benefit. The amount of the initial lump-sum benefit, as determined by the member, shall not exceed an amount equal to the member's normal monthly retirement benefit times 60.

B. The member's monthly retirement will be actuarially reduced based on the lump-sum amount withdrawn and the member's age at retirement. The partial lump-sum benefit, together with the member's reduced normal retirement benefit, must be actuarially equivalent to the member's normal retirement benefit as set forth in R.S. 11:3384.

C. The cost of living adjustment (COLA) granted by the board of trustees to retirees who elect to receive a reduced

retirement benefit and a partial lump-sum benefit shall be based only on the reduced retirement benefit and shall not be based on the partial lump-sum benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.2.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000), amended LR 30:1684 (August 2004).

§1903. Distributions from Partial Lump-Sum Option Payment

A. Distributions from the partial lump-sum option payment (PLOP) elected by the member are eligible for rollover as is the case with DROP accounts. Similarly, any amount of the partial lump-sum option payment left with the fund shall be subject to the rules applicable to distribution of DROP accounts.

1. As detailed in those rules applicable to DROP accounts, allowable distributions vary depending upon whether the member retires before, during or after the calendar year in which the member reaches age 55.

B. A member who retires before the calendar year in which the member reaches age 55 may receive distribution of his PLOP at retirement and avoid incurrence of the 10 percent early distribution penalty. In the event any PLOP remains on deposit with the fund, all distribution rules applicable to DROP accounts apply, including the 10 percent early distribution penalty or recapture penalty, if applicable.

C. A member who retires during or after the calendar year in which the member reaches age 55 may receive distribution of his PLOP account in accordance with rules applicable to DROP accounts, will not be subject to the 10 percent early distribution penalty or recapture penalty, but will be subject to those DROP rules requiring mandatory distributions of the account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363, and 3385.2.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 26:291 (February 2000), repromulgated LR 26:1610 (August 2000), amended LR 30:1684 (August 2004).

Chapter 20. Tax Qualification Provisions

EDITOR'S NOTE: Section 2005 below references section 401(a)(37) of the Internal Revenue Code:
(37) Death benefits under userra-qualified active military service.— A trust shall not constitute a qualified trust unless the plan provides that, in the case of a participant who dies while performing qualified military service (as defined in section 414(u)), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan had the participant resumed and then terminated employment on account of death.

§2001. General Provisions

A. The New Orleans Firefighters Pension and Relief Fund shall be a tax-qualified governmental plan as provided in the *Internal Revenue Code* of 1986, as amended. In accordance with the requirements of the *Internal Revenue Code*, the following provisions shall apply to the fund.

1. The assets of the fund shall be held for the exclusive benefit of the members of the fund, the retirees thereof, and the survivors and beneficiaries of the retirees and members. No part of the funds held by the trustees of the fund shall be used or diverted for any reason, including any contingency or event or by any other means, to other purposes, including but not limited to reversion to any employer.

2. The retirement benefit of a member shall be fully vested and nonforfeitable no later than the date on which he becomes eligible to retire. Benefits of members shall also become vested and nonforfeitable upon the termination of the fund or the complete discontinuance of contributions to the system.

3. Forfeitures shall not be used to increase the benefits of the remaining members of the fund. This shall specifically not preclude any increase in benefits by amendment to the benefit formula made possible by a change in contribution rate, favorable investment results, or other means.

4. A member's benefit shall begin to be distributed not later than the latest date provided for the commencement of benefits for governmental plans under section 401(a)(9)(C) of the *Internal Revenue Code* of 1986, as amended. Distributions to a surviving spouse, dependent, successor and/or beneficiary of a member shall be made at least as soon as distributions are required to be made by qualified governmental plans under the *Internal Revenue Code* of 1986, as amended. Benefits payable shall be limited in accordance with IRC section 415 and applicable Treasury Regulations as applied to governmental plans.

5. In computing benefit accruals, there shall not be taken into account compensation in excess of the limitations specified in section 401(a)(17) of the *Internal Revenue Code*, as amended. Such compensation limit was $200,000 for tax years beginning after December 31, 2001.

6. The fund, its trustees, consultants, and advisors shall not engage in any prohibited transactions as that term is defined in section 503 of the *Internal Revenue Code* of 1986, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 37:1392 (May 2011).

§2003. Actuarial Equivalence

A. The New Orleans Firefighters Pension and Relief Fund shall be a tax-qualified governmental plan as provided in the *Internal Revenue Code* of 1986, as amended. In accordance with the requirements of the *Internal Revenue Code*, the following provisions shall apply to the fund.

1. The term *actuarial equivalence* or terms of similar import, wherever used, means a benefit of equivalent

actuarial value determined by using the mortality assumptions and interest rates described herein.

a. The mortality assumptions will be based upon the 1971 Group Annuity Mortality Table for males, with male rates set back six years in age for females, at 7 percent interest.

b. If payment is in the form of a lump sum distribution or other similar form of distribution for a period less than the life expectancy, the amount of the distribution shall be calculated based on the 1994 UP at 7.5 percent interest.

c. For purposes of determining actuarial equivalence, the assumptions used as the basis for actuarial equivalence shall be reviewed periodically by the Board of Trustees and updated and amended if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 38:1012 (April 2012).

§2005. Military Service

A. Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the *Internal Revenue Code*. To the extent applicable, the provisions of IRC section 401(a)(37) shall apply. (See Editor's Note.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 38:1012 (April 2012).

Title 58
RETIREMENT
Part VII. School Employees' Retirement System

Chapter 1. Administration of Act 416 of 1976

§101. Rules for the Administration of Act 416 of 1976

A. This system will recognize only that retirement service credit in those state, municipal, and parochial retirement systems domiciled in the state of Louisiana and which were created under the laws of the state of Louisiana or created by the Louisiana Legislature for employees covered under these systems.

B. Withdrawal of funds from any system voids the reciprocal recognition of service agreement.

C. Withdrawal from any system where the recognized service in another system was necessary to make an individual eligible for membership voids the membership of such individual, as well as the reciprocal recognition of service agreement.

D. Repayment of refunds, and interest thereon, to reestablish service credit must be paid in full to all systems named in the application before the application for reciprocal recognition of service credit will be accepted as a valid application, regardless of when submitted.

E. Recognition of creditable service for the purposes of this Act does not include recognition or acceptance for any other purpose than those enumerated and specified in Act 416 of 1976 Regular Session.

F. *Lump sum benefit*, as used in this Act, shall refer to the supplementary allowance provided in R.S. 17:913C.

G The last beneficiary designation on file in this agency will be the beneficiary of record for this system, whether filed before or after the repayment of a refund or a reciprocal recognition of service agreement.

H. Recognized creditable service from other systems and creditable service in this system will be converted to whole years and partial years, with partial years expressed as a percentage of a year.

I. The service referred to in Paragraph F(2) refers only to those systems where the years of service determines the percentage benefit (e.g., after 20 years a person may retire with 60 percent of his best three years, or after 25 years a person may retire with 75 percent of his best three years, etc.), and therefore, is not applicable to benefits or computations of benefits from this system.

J. *Pro rata portion* and *proportion* used in this Act shall be based on the maximum benefit in each system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the School Employees Retirement System, LR 3:76 (February 1977).

Chapter 3. Interest Rates

§301. Interest Rates Charged on Purchases of Service Credit

A. All cost computations on and after July 20, 1985 for all active members to gain retirement credit will be done on an 8 percent compound interest rate.

B. The only exceptions to the 8 percent compound interest rate will be credit for active military service, which has a 5 percent compound interest rate in the legislative provision.

C. A review of the interest rate being used will be made in January of each year. Should a change of rate be agreed on after the review, the new rate will become effective July 1 of that same year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165.

HISTORICAL NOTE: Promulgated by the Department of Treasury, School Employees' Retirement System, LR 11:705 (July 1985).

Chapter 4. *Internal Revenue Code* Provisions

§401. Limitation on Benefits

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor

employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this chapter shall be determined and applied taking into account the rules in Section G

F. Definitions

415 Safe-Harbor Compensation—

a. Compensation is defined as wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the income tax regulations), and excluding the following:

i. employer contributions [other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)] to a plan of deferred compensation (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i through iv above.

b. For any self-employed individual, compensation shall mean earned income.

c. Except as provided herein, for limitation years beginning after December 31, 1991, compensation for a limitation year is the compensation actually paid or made available during such limitation year.

d. For limitation years beginning on or after July 1, 2007, compensation for a limitation year shall also include compensation paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

e. Any payments not described above shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

f. For limitation years beginning after December 31, 1997, compensation paid or made available during such limitation year shall include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

g. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

h. For limitation years beginning after December 31, 2008, compensation shall also include any differential wage payments as defined in code section 3401(h) which:

i. is made by the employer to an individual with respect to any period during which an individual is performing service in the uniformed services (as defined in chapter 43 of title 38, *United States Code*) while on active duty for a period of more than 30 days; and

ii. represents all or a portion of the remuneration such individual would have received from the employer if he or she was performing services for the employer.

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the annual benefit shall take into account social security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §§401.F.1.b. or 401.F.1.c.

b. Benefit Forms Not Subject to Section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph F.1.b, if the form of the member's benefit is either:

(a). a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b). an annuity that decreases during the life of the member merely because of:

(i). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii). the cessation or reduction of Social Security supplements or qualified disability payments [as defined in section 401(a)(11)].

ii. Limitation years beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate specified in R.S. 11:1171 and the mortality table (or other tabular factor) specified in R.S. 11:1171 for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in §401.F.1.b. In this case, the

actuarially equivalent straight life annuity shall be determined as follows:

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of computed using the interest rate specified in R.S. 11:1171 and the mortality table (or other tabular factor) specified in R.S. 11:1171 for adjusting benefits in the same form;

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table defined in. R.S. 11:1171; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate defined in. R.S. 11:1171 and the applicable mortality table defined, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate specified in R.S. 11:1171 and the mortality table (or other tabular factor) specified in R.S. 11:1171 for adjusting benefits in the same form; and

(b). a 5.5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §401.F.1.c. shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this Chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate specified in R.S. 11:1171 and the mortality table (or other tabular factor) specified in R.S. 11:1171 for adjusting benefits in the same form;

(ii). the applicable interest rate defined in R.S. 11:1171 and the applicable mortality table; and

(iii). the applicable interest rate defined in R.S. 11:1171 (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

Applicable Mortality Table—the applicable mortality table within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

Defined Benefit Compensation Limitation—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment, the defined benefit compensation limitation is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §401.G

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, the defined benefit dollar limitation is $160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

Employer—for purposes of this chapter, employer shall mean the employer that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses [as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)], or affiliated service groups [as defined in section 414(m)] of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to section 414(o) of the *Internal Revenue Code*.

Formerly Affiliated Plan of the Employer—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose, cessation of affiliation means the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

High Three-Year Average Compensation—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service,

including fractions of years, but not less than one year) with the employer that produces the highest average. A year of service with the employer is the 12 consecutive month period defined in R.S. 11:1131. In the case of a member who is rehired by the employer after a severance from employment, the member's high three-year average compensation shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

Limitation Year—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same limitation year. If the limitation year is amended to a different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.

Maximum Permissible Benefit—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §401.F.10.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate specified in R.S. 11:1171 and the mortality table (or other tabular factor) specified in R.S. 11:1171; or

(ii). a 5 percent interest rate assumption and the applicable mortality table as defined in R.S. 11:1171.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date as defined in R.S. 11:1171 (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate specified in R.S. 11:1171 and the mortality table (or other tabular factor) specified in R.S. 11:1171; or

(ii). a 5-percent interest rate assumption and the applicable mortality table as defined in R.S. 11:1171.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date as defined in R.S. 11:1171 (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §401.F.10.b.ii.(b).(i). and the defined benefit dollar limitation (adjusted under §401.F.10.a. for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the maximum permissible benefit if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed $10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

Predecessor Employer—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a predecessor employer with respect to the member in the plan. A former entity that antedates the employer is also a predecessor employer with respect to a member if, under the facts and circumstances, the employer

constitutes a continuation of all or a portion of the trade or business of the former entity.

Severance from Employment—an employee has a severance from employment when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a severance from employment if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

Year of Participation—the member shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one year of participation be credited for any 12-month period.

Year of Service—for purposes of Section 401.G, the member shall be credited with a year of service (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a predecessor employer.

G Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the predecessor employer.

5. Special Rules. The limitations of this chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Louisiana School Employees' Retirement System, LR

38:3241 (December 2012), amended by the Department of the Treasury, Board of Trustees of the School Employees' Retirement System, LR 43:1187 (June 2017).

§403. Required Minimum Distributions

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

a. the member's life;

b. if the member is married, the life of the member's designated beneficiary;

c. the member's life expectancy;

d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph, *spouse* shall mean that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death. Payment of survivor benefits shall not be considered to violate this provision.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and six months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:1151 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Louisiana School Employees Retirement System, LR 38:3247 (December 2012).

§405. Direct Rollovers

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an "eligible rollover distribution", as specified by

the distributee, paid directly to an "eligible retirement plan", as those terms are defined below.

B. The following definitions shall apply.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

c. any distribution which is made upon hardship of the employee.

Eligible Retirement Plan—any of the following:

a. an individual retirement account described in section 408(a) of the *Internal Revenue Code*;

b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

Distributee—shall include:

a. a member or former member;

b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

Direct Rollover—a payment by the system to the eligible retirement plan specified by the distributee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Louisiana School Employees Retirement System, LR 38:3248 (December 2012).

§407. Annual Compensation Limitation

A. Unless otherwise provided in this Chapter, the accrued benefit of each *section 401(a)(17) employee* as that term is defined below shall be the greater of the following:

1. The employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals.

2. The sum of:

a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the Code of Federal Regulations;

b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. A *section 401(a)(17) employee* shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded $150,000.

C. If an employee is not a "Section 401(a)(17) employee", his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of Section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Louisiana School Employees Retirement System, LR 38:3248 (December 2012).

§409. Participation in Group Trusts

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. for investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and

2. adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law,

by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1165 and R.S. 11:1165.1.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the School Employees' Retirement System, LR 45:1083 (August 2019).

Title 58
RETIREMENT
Part IX. State Police Retirement System

Chapter 1.Service Credit

§101. Military Service Credit

A. The Board of Trustees of the Louisiana State Police Retirement System will grant military service credit for active duty service spent in the United States Reserves or the National Guard. Such credit will be granted only for active duty service prior to September 9, 1977. Any active duty service in the U.S. Reserves or National Guard after September 9, 1977 may be purchased in accordance with R.S. 40:142(B)2.b and c.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:142(B)2.b and c.

HISTORICAL NOTE: Promulgated by the Department of Treasury, State Police Retirement System, LR 7:122 (March 1981).

Chapter 2.*Internal Revenue Code* Provisions

§201. Limitation on Benefits

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B. The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this Chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this Chapter shall be determined and applied taking into account the rules in Subsection G

F. Definitions

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the *annual benefit* shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this Chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the *annual benefit* shall take into account social security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to

section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §201.F.1.b or F.1.c.

b. Benefit Forms Not Subject to Section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph b, if the form of the member's benefit is either:

(a). a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b). an annuity that decreases during the life of the member merely because of:

(i). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii). the cessation or reduction of Social Security supplements or qualified disability payments [as defined in section 401(a)(11)].

ii. Limitation Years Beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years Beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Paragraph if the form of the member's benefit is other than a benefit form described in §201.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of computed using the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5.5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §201.F.1.c. shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this Chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

Applicable Interest Rate—the rate of interest on 30 year Treasury securities (or any subsequent rate used under section 417(e) of the *Internal Revenue Code*) as specified by the Internal Revenue Service for the lookback month. The lookback month applicable to the stability period is the second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the *applicable interest rate* remains constant.

Applicable Mortality Table—the *applicable mortality table* within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

415 Safe-Harbor Compensation—

a. *compensation*—wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, *compensation* for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the income tax regulations), and excluding the following:

i. employer contributions [other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)] to a plan of deferred *compensation* (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred *compensation* (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i-iv above;

b. for any self-employed individual:

i. *compensation*—earned income;

c. except as provided herein, for limitation years beginning after December 31, 1991, *compensation* for a limitation year is the *compensation* actually paid or made available during such limitation year;

d. for limitation years beginning on or after July 1, 2007, *compensation* for a limitation year shall also include *compensation* paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular *compensation* for services during the member's regular working hours, or *compensation* for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred *compensation* plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income;

e. any payments not described above shall not be considered *compensation* if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as *compensation* for the limitation year to which the back pay relates to the extent the back pay represents wages and *compensation* that would otherwise be included under this definition;

f. for limitation years beginning after December 31, 1997, *compensation* paid or made available during such limitation year shall include amounts that would otherwise be included in *compensation* but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b);

g. for limitation years beginning after December 31, 2000, *compensation* shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

Defined Benefit Compensation Limitation—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment, the *defined benefit compensation limitation* is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §201.G

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, the *defined benefit dollar limitation* is $160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

Employer (for purposes of this Chapter)—the *employer* that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses [as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)], or affiliated service groups [as defined in section 414(m)] of which the adopting *employer* is a part, and any other entity required to be aggregated with the *employer* pursuant to section 414(o) of the *Internal Revenue Code*.

Formerly Affiliated Plan of the Employer—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose:

a. *cessation of affiliation*—the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

High Three-Year Average Compensation—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's *high three-year average compensation* shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

Limitation Year—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same *limitation year*. If the *limitation year* is amended to a different 12-consecutive month period, the new *limitation year* must begin on a date within the *limitation year* in which the amendment is made.

Maximum Permissible Benefit—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §201.F.11.b.ii.(b).(i) and the defined benefit dollar limitation (adjusted under §201.F.11.a for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the *maximum permissible benefit* if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed $10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than 1 year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

Predecessor Employer—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a *predecessor employer* with respect to the member in the plan. A former entity that antedates the employer is also a *predecessor employer* with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

Severance from Employment—an employee has a *severance from employment* when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a *severance from employment* if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

Year of Participation—the member shall be credited with a *year of participation* (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a *year of participation* credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a *year of participation* with respect to that period. In addition, for a member to receive a *year of participation* (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one *year of participation* be credited for any 12-month period.

Year of Service—for purposes of Subsection G of this Section, the member shall be credited with a *year of service* (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a predecessor employer.

G Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer

of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the predecessor employer.

5. Special Rules. The limitations of this Chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1286 (May 2013).

§202. Required Minimum Distributions

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

a. the member's life;

b. if the member is married, the life of the member's designated beneficiary;

c. the member's life expectancy;

d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph:

a. *spouse*—that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death. Payment of survivor benefits shall not be considered to violate this provision.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and 6 months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:1316-1323.1 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1292 (May 2013).

§203. Direct Rollovers

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an "eligible rollover distribution," as specified by the distributee, paid directly to an "eligible retirement plan," as those terms are defined below.

B. The following definitions shall apply.

Direct Rollover—a payment by the system to the eligible retirement plan specified by the distributee.

Distributee—shall include:

a. a member or former member;

b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

Eligible Retirement Plan—any of the following:

a. an individual retirement account described in section 408(a) of the *Internal Revenue Code*;

b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an *eligible rollover distribution* does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

c. any distribution which is made upon hardship of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1292 (May 2013).

§204. Annual Compensation Limitation

A. Unless otherwise provided in this Chapter, the accrued benefit of each section 401(a)(17) employee as that term is defined below shall be the greater of the following:

1. the employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals;

2. the sum of:

a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the *Code of Federal Regulations*;

b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. A *section 401(a)(17) employee* shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded $150,000.

C. If an employee is not a section 401(a)(17) employee, his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1293 (May 2013).

§205. General

A. The assets of this system's pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. No part of the corpus, the system's pension plan assets held in trust, or income of the system's pension plan shall be used for or diverted to purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the system's pension plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

B. The retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he becomes eligible to retire. Benefits of affected members shall also become vested and nonforfeitable to the extent funded, upon the termination or partial termination of the system's pension plan or the complete discontinuance of contributions thereto.

C. Forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Louisiana State Police Retirement System, LR 39:1294 (May 2013).

Chapter 3. Procedures for Election of Louisiana State Police Retirement System Trustees

§301. General Election Procedures

A. The director shall issue to the Louisiana State Police Retirement System membership a notice of each trustee office to be filled in the following timeframe:

1. between the first Monday in August and the third Monday in August, for a position with term ending December 31, via mail, with qualifying form attached and placed on the website, such form to require applicant's name, date started in system, and for which seat the applicant is qualifying;

2. between the first Monday in February and the third Monday in February, for a position with term ending June 30, via mail, with qualifying form attached and placed on the website, such form to require applicant's name, date started in system, and for which seat the applicant is qualifying.

B. Candidates shall submit in writing to the director their intention to run for a specified office between in the following timeframe:

1. the fourth Monday in August and the second Monday in September, for a position with term ending December 31; and

2. the fourth Monday in February and the second Monday in March, for a position with term ending June 30.

C. The board of trustees shall designate a qualifying form. The designated qualifying form shall be posted on the website and/or mailed to the member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

§303. Ballots, Count, Tabulation, Posing, Oath of Office

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address in the following timeframe:

1. beginning the fourth Monday of September through the second Monday of October, for a position with term ending December 31;

2. beginning the fourth Monday of March through the second Monday of April for a position with term ending June 30:

a. the ballots shall be issued to members who are eligible to vote for this particular candidate pursuant to R.S. 11:1302 ("qualified member") as of September 1 of that year; and

b. the member must be a qualified member as of the date the system counts the ballot in order for that member's ballot to be counted;

c. in addition to the ballot the director shall mail an envelope in which to enclose the ballot, on which the qualified member must sign his or her name, and a return envelope for the sealed ballot to be returned to 9224 Jefferson Hwy, Baton Rouge, LA 70809 and instructions;

d. the director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website in late November or early December (for a position with term ending December 31) or late May or early June (for a position with term ending June 30);

e. voted ballots shall be accepted through the fourth Monday in October at 4:30 p.m. (for a position with term ending December 31) or through the fourth Monday in April at 4:30 p.m. (for a position with term ending June 30);

f. a date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director.

1. The director shall call a special meeting of the retirement staff, and notify the public by placing notice on the LSPRS website that anyone may attend, at which time the retirement staff shall count and tabulate ballots between November 1 and December 10 (for a position with term ending December 31) and between May 1 and June 10 (for a position with term ending June 30).

2. The director shall ensure that the board and the candidates are informed of the results of the vote thereafter. At next board meeting, the board of trustees shall announce the results.

C. The director shall issue to the elected trustee an oath of office.

1. The trustee shall take the oath at the first board meeting of the year in which the trustee takes office.

a. The oath shall contain a term of office effective January 1 of this year for a position ending December 31 and effective July 1 for a position ending June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

§305. Vacancy

A. Should a vacancy occur, the board shall hold a special election as soon as reasonably possible to fill this unexpired seat.

1. If the unexpired term of office for this seat is less than two years from the date the election results are expected, the election shall be for the unexpired term of office and for the next five-year term.

2. If the unexpired term of office for this seat is two years or greater from the date the election results are expected, then the election shall be for the unexpired term of office only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

Title 58
RETIREMENT
Part XI. Parochial Employees' Retirement System

Chapter 1. General Provisions

§103. Definitions

A. The following definitions shall apply in this Part.

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in *Internal Revenue Code* Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an individual retirement account described in *Internal Revenue Code* Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in *Internal Revenue Code* Section 403(a), or a qualified trust described in *Internal Revenue Code* Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an Individual Retirement Account or individual retirement annuity. An eligible retirement plan shall also mean an annuity contract described in *Internal Revenue Code* Section 403(b) and an eligible plan under *Internal Revenue Code* Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

Eligible Rollover Distribution—

a.i any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

ii. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

iii. any distribution to the extent such distribution is required under *Internal Revenue Code* Section 401(a)(9);

iv. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities;

v. a hardship distribution.

b. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution or qualified defined benefit plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:1491 (July 2004).

Chapter 3. Eligibility

§301. Persons Not Eligible for Membership; Leased Employees

A. Leased employees or persons considered by the system as leased employees of an employer shall not be eligible to participate. Leased employee shall mean any person who is not employed by an employer and pursuant to an agreement between the employer and any other person or entity ("leasing organization") has performed services for the employer (or for related persons determined in accordance with Section 414(n)(6) of the *Internal Revenue Code*) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:1492 (July 2004).

§303. Creditable Service; Uniformed Services Employment and Reemployment Rights Act

A. If a member takes a leave of absence to serve in the U.S. armed services, the terms of which are governed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), then upon the member's return to employment with the employer within five years from the leave of absence, the member shall be permitted to make the member contributions called for under the system as if the member had continued employment, and if so made, the member shall be given creditable service under the system

for that period of time. The member contributions to the system as permitted under this Section shall be made ratably over a period of time equaling the period the member was in the U.S. armed services, but in no event shall such period exceed five years. If the returning member makes the member contribution, the employer shall be required to make an employer contribution to fund the employer's portion of the creditable service given to the returning member. The amount of the member's contribution and the employer's contribution shall be determined by the system's actuary. A member who does not return to employment with his employer shall not be affected by this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:1492 (July 2004).

Chapter 5. Scope of Benefits

§501. Limitation on Payment of Benefits

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

a. the member's life;

b. the life of the member's designated beneficiary or the joint and last survivor lives of the member and his designated beneficiary;

c. the member's life expectancy;

d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary shall be his spouse. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.

B.1. If the member dies before his benefit has commenced, the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 1/2 years. If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph 1 shall be applied as if the surviving spouse were the member. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age 18.

3. Paragraph 1 shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection B.

C. If a survivor benefit is payable to a specified person or persons or if a benefit is payable at death under an option elected pursuant to R.S. 11:1932, the member shall be considered to have designated such person as a designated beneficiary hereunder. If there is more than one such person, then the oldest such person shall be considered to have been so designated, or, if none, then the oldest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

D. Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* Section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

E.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

F. The provisions of this Section shall be effective July 1, 1987.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:508 (March 2004), amended LR 30:1492 (July 2004).

§503. Early Payment of Benefits

A. In the event of plan termination, the benefit of any highly compensated employee including an active highly compensated employee and a former employee who was a highly compensated employee, is limited to a benefit that is nondiscriminatory under *Internal Revenue Code*, Section 401(a)(4) (see 26 U.S.C. 401 et seq.)

B.1. For plan years beginning on or after January 1, 1991, benefits distributed to any of the 25 most highly compensated active and former highly compensated employees are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the employee under a single life annuity that is the actuarial equivalent of the sum of the employee's accrued benefit and the employee's other benefits under the plan.

2. Subsection A of this Section shall not apply if:

a. after the payment of the benefit to an employee described in Paragraph 1 of this Subsection, the value of

plan assets equals or exceeds 110 percent of the value of current liabilities as defined in *Internal Revenue Code* Section 412(1)(7); or

b. the value of the benefits for an employee described above is less than 1 percent of the value of current liabilities.

3. For purposes of this Section, benefit includes loans in excess of the amount set forth in *Internal Revenue Code* Section 72(p)(2)(A), any periodic income, any withdrawal values payable to a living employee, and any death benefits not provided for by insurance on the employee's life.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:509 (March 2004).

§505. Compensation Limited

A. In addition to other applicable limitations set forth in the plan, and notwithstanding any other provisions of the plan to the contrary, for plan years beginning on or after January 1, 1994 and before January 1, 2002, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 annual compensation limit. The Omnibus Budget Reconciliation Act of 1993 annual compensation limit is $150,000, as adjusted by the commissioner of Internal Revenue for increases in the cost of living in accordance with Section 401(a)(17)(B) of the *Internal Revenue Code* (see 26 U.S.C. 401 et seq.). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

B. For plan years beginning on or after January 1, 1994 and before January 1, 2002, any reference in this plan to the limitations under *Internal Revenue Code* Section 401(a)(17) shall mean the Omnibus Budget Reconciliation Act of 1993 annual compensation limit set forth in this Section.

C. If compensation for a prior determination period is taken into account in determining an employee's benefits accruing in the current plan year, the compensation for that prior determination period is subject to the Omnibus Budget Reconciliation Act of 1993 annual compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first plan year beginning on or after January 1, 1994, the Omnibus Budget Reconciliation Act of 1993 annual compensation limit is $150,000.

D. For plan years beginning on or after January 1, 2002, the annual compensation limitation (Section 401(a)(17) of the *Internal Revenue Code*) for the determination of a retirement allowance shall not exceed $200,000, as adjusted for cost-of-living under Paragraph 401(a)(17)(B) of the *Internal Revenue Code*. If compensation for a prior period is taken into account in determining a member's benefits accruing in the current plan year, the compensation for the prior period shall be subject to the compensation limit for the current year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), amended LR 30:1492 (July 2004).

§507. Transfer of Benefits

A. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provisions of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to a retirement plan specified by the distributee in a direct rollover.

B. If a distribution is one to which Sections 401(a)(11) and 417 of the *Internal Revenue Code* (see 26 U.S.C. 401 et seq.) do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the federal income tax regulations is given, provided that:

1. the plan administrator clearly informs the participant that the participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

2. the participant, after receiving the notice, affirmatively elects a distribution.

C. The following definitions shall apply.

Direct Rollover—a payment by the plan to the eligible retirement plan specified by the distributee.

Distributee—includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in *Internal Revenue Code* Section 414(p), are *distributees* with regard to the interest of the spouse or former spouse.

Eligible Retirement Plan—an individual retirement account described in *Internal Revenue Code* Section 408(a), an individual retirement annuity described in Section 408(b), an annuity plan described in *Internal Revenue Code* Section 403(a), or a qualified trust described in *Internal Revenue Code* Section 401(a), that accepts the distributee's eligible rollover distributions. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

b. any distribution to the extent such distribution is required under *Internal Revenue Code* Section 401(a)(9);

c. the portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:509 (March 2004), repromulgated LR 30:1046 (May 2004).

§509. Computation of Retirement Benefits

A. This Section is intended to comply with *Internal Revenue Code* Section 415. It shall cover only those who become members for the first time on or after January 1, 1990, and those qualified participants for whom the benefit is increased after October 14, 1987, to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

B. The normal retirement benefit of a member of Plan A shall not exceed the amount set forth in R.S. 11:1942, the normal retirement benefit of a member of Plan B shall not exceed the amount set forth in R.S. 11:1962, and the normal retirement benefit of a member of Plan C shall not exceed the amount set forth in R.S. 11:1972.

C.1. Qualified Participant shall mean a member of the system who first became a member before January 1, 1990. In the case of the merger of, or transfer of assets and benefits of a member or members from, another plan maintained by an employer which joins this system, the accrued benefit under such predecessor plan shall be the accrued benefit referred to above, and the member shall be considered a qualified participant if his participation in such predecessor or merged plan commenced on or before January 1, 1990.

2. All employers contributing to the system on behalf of their employees, and all employers who may join the system, as a condition of such joining, shall elect, and such election is hereby implemented, to have the limitations of *Internal Revenue Code* Section 415(b) other than Paragraph 2G thereof applied without regard to Paragraph 2F thereof, which limitations are set forth in Subsection D. Such limitations shall apply to all members who are not qualified participants as described herein and to qualified participants to the extent of the benefit increase after October 14, 1987, including cost-of-living adjustments on any such increase.

D. The retirement benefit of any member of the retirement system who is not a qualified participant, as defined in Paragraph C.1 and which is not attributable to the member's after-tax employee contribution, when expressed as an annual benefit may not exceed the lesser of $90,000 per year or 100 percent of such member's average compensation for his highest three years. For purposes of determining whether a member's benefit exceeds this limitation, the following shall apply.

1. Adjustment if Benefit Not Single Life Annuity

a. If the normal form of benefit is other than a single life annuity, such form shall be adjusted actuarially to the equivalent of a single life annuity. This single life annuity shall not exceed the maximum dollar or percent limitations outlined above.

b. No adjustment is required for the following:

i. qualified joint and survivor annuity benefits;

ii. pre-retirement disability benefits;

iii. pre-retirement death benefits.

2. A member's retirement allowance shall be limited to $160,000. The $160,000 amount shall be adjusted for members retiring before age 62 or after age 65 under *Internal Revenue Code* Section 415(b)(2). The benefit limitation in the foregoing sentence shall be further adjusted by multiplying such limitation by the cost of living adjustment factor prescribed by the secretary of the Treasury under *Internal Revenue Code* Section 415(d) in such manner as the secretary shall prescribe. The new limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

3. Adjustment for Less than 10 Years of Creditable Service

a. If retirement benefits are payable under this retirement system to a member who has less than 10 years of creditable service in the retirement system, the dollar limitation referred to in the first Paragraph of this Subsection ($90,000) will be multiplied by a fraction, the numerator of which is the member's number of years of creditable service in the system (not greater than 10), and the denominator of which is 10.

i. Effective for plan years beginning on or after January 1, 2002, "$160,000" will be substituted for "$90,000" above.

4. Annual Adjustment. The limitation provided in this Subsection shall be adjusted annually to the maximum dollar limits allowable by the secretary of the Treasury of the United States under *Internal Revenue Code* Section 415(d), such adjustments not to take effect until the first day of the fiscal year following December 31, 1987. The adjustment shall not exceed the adjustment in effect for the calendar year in which the fiscal year of the system begins. The adjusted earlier limitation is applicable to employees who are members of the system and to members who have retired or otherwise terminated their service under the system with a

nonforfeitable right to accrued benefits, regardless of whether they have actually begun to receive benefits. This system shall be considered specifically to provide for such post-retirement adjustments. For any limitation year beginning after separation from service occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the limitation year in which the member separated from service. No adjustment shall be permitted with respect to limitations applicable after October 14, 1987.

5. Member or Participant in More than One Plan. If a member is a member or participant in more than one defined benefit pension plan maintained by the state, its agencies, or its political subdivisions, then such member's benefit, considered in the aggregate after taking into account the benefits provided by all such retirement plans, shall not exceed the limits provided in this Subsection.

6. Total Annual Benefits Not in Excess of $10,000. Notwithstanding the preceding provisions of this Subsection, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitations of this Subsection if:

a. the retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed $10,000 for the plan year, or for any prior plan year; and

b. the employer has not at any time maintained a defined contribution plan in which the participant participated.

7. Average Compensation

a. For purposes of R.S. 11:1942, 1962, and 1972, average compensation shall include any amounts properly considered as the regular rate of pay of the member, as defined in R.S. 11:231 and unreduced by amounts excluded from income for federal income tax purposes by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h), or 457 or any other provision of federal law of similar effect.

b. For purposes of Subsection D, average compensation shall include total compensation payable by the employer and included in the employee's income for federal income tax purposes and shall exclude amounts not includable in the member's gross income by reason of 26 U.S.C.A. §§125, 132(f), 402(a)(8), 402(h)(1)(B), 403(b), 414(h) and 457 or any other provision of federal law. A member's highest three years shall be the period of consecutive calendar years (not more than three) during which the member both was an active participant in the plan and had the greatest aggregate compensation from the employer.

8. Treasury Regulation Applicable. That portion of the benefit designated herein which is attributable to member contributions shall be determined in accordance with Treasury Regulations §1.415-3(d)(1).

E. All member contributions required to be made to this system shall be considered for tax purposes as contributions made pursuant to *Internal Revenue Code* Section 414(h)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 30:510 (March 2004), amended LR 30:1493 (July 2004).

Chapter 7. Terminations

§701. Procedures for Determination of the Unfunded Accrued Liability

A. Procedures for Determination of the Unfunded Accrued Liability under R.S. 11:1903(F) of Parochial Employees' Retirement System of Louisiana

1. The unfunded accrued liability calculated pursuant to R.S. 11:1903(F) shall be determined in a manner consistent with statement 68 of the Governmental Accounting Standards Board.

2. That is the following: the portion of the unfunded accrued liability attributable to the employer's termination shall be a pro rata portion of the allocated share of the net pension liability (as per statement 68) for the prospective termination of the December 31 immediately preceding the date of termination. The pro rata share shall be determined as one minus the ratio of the present value of future salaries for the current active members of the terminating entity to the present value of future salaries of the active group assuming replacement of terminated employees based on a general increase in payroll as a function of the inflation assumption implicit in the valuation assumptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 42:1691 (October 2016).

Title 58
RETIREMENT
Part XIII. Firefighters' Retirement System

Chapter 1. General Provisions

§101. Survivor Benefits; Procedures to Use When Determining Whether Member's Death Occurred in the Line of Duty

A. Pursuant to the provisions of R.S. 11:2256(B)(1)(a)(i), the surviving spouse of any active contributing member of the system who is killed in the line of duty, is authorized to be paid, on a monthly basis, an annual benefit equal to two-thirds of the deceased member's average final compensation.

B. Pursuant to the provisions of R.S. 11:2256(B)(1)(a)(ii), the board of trustees must promulgate rules to provide a procedure for determining whether a member was killed in the line of duty. Thereafter, the board must use its discretion in applying the procedure. The application of the procedure must be in compliance with the fiduciary duty of such trustees as such duty is set forth in Title 11 of the Revised Statutes of 1950, as amended.

C. The procedure used for determining whether or not a member's death occurred in the line of duty shall be as follows: The board of trustees shall direct its staff to conduct a study of the facts and circumstances leading up to and being the cause of the member's death. The staff shall conduct that study and report its findings either verbally or in a written report, or both, to the board of trustees in an open public meeting wherein the subject matter of the surviving spouse's benefits are placed before the board for discussion and action. Such report shall be furnished to the board within 30 days of the conclusion of the study, unless the application for benefits and case file is not otherwise complete and ready for board consideration. Any motion that is made to approve survivor benefits of a member killed in the line of duty shall contain a summary recitation of the facts and circumstances leading up to and being the cause of the member's death. The board of trustees shall apply these procedures in a manner consistent with its fiduciary duty. The foregoing procedure shall be used in all similar cases and shall be known as the "Boler Act Rule".

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2256(B)(1)(a)(ii) and the Administrative Procedures Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Firefighters Retirement System, LR 35:949 (May 2009).

Title 58
RETIREMENT
Part XV. Sheriffs' Pension and Relief Fund

Chapter 1. General Provisions

§101. Court Order or Judgment

A. To be effective as to the Louisiana Sheriffs' Pension and Relief Fund, any court order or judgment issued upon or after the termination of a community property regime which order or judgment recognizes the community interest of a spouse or a former spouse of a member or retiree of the Louisiana Sheriffs' Pension and Relief Fund and provides that a benefit or return of employee contributions be divided by the Louisiana Sheriffs' Pension and Relief Fund with the spouse or former spouse, shall be:

1. considered to be received by the Louisiana Sheriffs' Pension and Relief Fund under R.S. 11:291(B) only if a certified copy of the order is served on the Executive Director or Assistant Executive Director of the Fund by the Sheriff of East Baton Rouge Parish; and

2. specific to the Louisiana Sheriffs' Pension and Relief Fund.

B. A court order purporting to divide a member's or retiree's benefit s and/or employee contributions between the member/retiree and former spouse that does not specifically identify the Louisiana Sheriff's Pension and Relief Fund by name shall not be effective as to said fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:291(B).

HISTORICAL NOTE: Promulgated by the Louisiana Sheriff's Pension and Relief Fund, LR 36:2290 (October 2010).

§103. Eligible Rollover Distribution

A. Within a reasonable period of time before making an eligible rollover distribution, the executive director or the assistant executive director of the fund shall provide a written explanation to the recipient of such a distribution explaining the following:

1. the provisions under which the recipient may have the distribution directly transferred to an eligible retirement plan and that the automatic distribution by direct transfer applies to certain distributions in accordance with §401(a)(31)(B) of the *Internal Revenue Code*;

2. the provision which requires the withholding of tax on the distribution if it is not directly transferred to an eligible retirement plan;

3. the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient receives the distribution;

4. the provisions under which distributions from the eligible retirement plan receiving the distribution may be subject to restrictions and tax consequences which are different from those applicable to distributions from the plan making such distribution.

B. For the purposes of this rule, a "reasonable period of time" shall have the meaning assigned to it under §401(a)(31) of the *Internal Revenue Code* and the regulations thereunder.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2177.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Sheriffs' Pension and Relief Fund, LR 36:2865 (December 2010)

Title 58
RETIREMENT
Part XVII. Registrars of Voters Employees' Retirement System

Chapter 1. Procedures for Election of Registrars of Voters Employees' Retirement System Trustees

§101. General Election Procedures

A. The director shall issue to the Registrars of Voters Employees' Retirement System membership a notice of each trustee office to be filled between the first Monday in July and the second Friday in July via email, with qualifying form attached and placed on the website, such form to require applicant's name, parish, date started in system, and for which seat the applicant is qualifying.

B. Candidates shall submit in writing to the director their intention to run for a specified office between the third Monday and the fourth Friday of July. The board of trustees shall designate a qualifying form. The designated qualifying form shall be posted on the website and/or mailed to the member.

C. These July dates will differ only for the first year, 2011, in which the notice shall be issued as soon as reasonably possible and the notice shall adjust the time for qualifying only as minimally as possible in order to maintain the remainder of the timetable below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

§103. Ballots, Count, Tabulation, Posting, Oath of Office

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address beginning the first Tuesday through the second Friday of September. The ballots shall be issued to members who were active employees as of June 30 of that year. In addition, the director shall issue a ballot to any active employee who is hired and enrolled in ROVERS after June 30 and prior to the first Tuesday of September if that employee makes a request in writing to the director. The member must be an active employee as of the date the system counts the ballot in order for that member's ballot to be counted. In addition to the ballot the director shall mail an affidavit as specified by the board of trustees, a return envelope and instructions. The director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website prior to January. Voted ballots shall be accepted through the first Friday in October at 4:30 p.m. A date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director. The chairman of the board shall call a special meeting to count and tabulate ballots between the first day of November and the last day of December. At this special meeting the board of trustees shall promulgate the returns and announce the results.

1. The director shall post the results of the promulgation on ROVERS' website. The director shall email each registrar notification of this posting and each registrar shall be required to download and print and post this notice in each of the registrar's offices.

2. The director shall issue to the elected trustee an oath of office. The trustee shall take the oath at the next board meeting and file a copy with their respective clerk of court. A copy of said oath shall be forwarded to the director. The oath shall contain a term of office effective January 1st of the year that the trustee takes office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012), amended LR 45:1209 (September 2019).

§105. Vacancy

A. Should a vacancy occur, the board shall appoint a replacement member to serve until the next regularly scheduled election. The election to fill this seat will be to fill the unexpired term of this office, unless the seat was expiring and was to be filled at the next election, in which case the election will be to fill the new term

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2091(B) and (C) et seq.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 38:1029 (April 2012).

Chapter 2. *Internal Revenue Code* Provisions

§201. Limitation on Benefits

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B. The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this Chapter shall be determined and applied taking into account the rules in Subsection G

F. Definitions

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)-1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this Chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the annual benefit shall take into account Social Security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §201.F.1.b or F.1.c.

b. Benefit Forms Not Subject to Section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph F.1.b, if the form of the member's benefit is either:

(a). a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b). an annuity that decreases during the life of the member merely because of:

(i). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii). the cessation or reduction of Social Security supplements or qualified disability payments [as defined in section 401(a)(11)].

ii. Limitation Years beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this paragraph if the form of the member's benefit is other than a benefit form described in §201.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of computed using the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

(b). a 5.5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §201.F.1.c. shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

Applicable Interest Rate—the rate of interest on 30 year Treasury securities (or any subsequent rate used under section 417(e) of the *Internal Revenue Code*) as specified by the Internal revenue service for the lookback month. The lookback month applicable to the stability period is the second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the applicable interest rate remains constant.

Applicable Mortality Table—the applicable mortality table within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

415 Safe-Harbor Compensation—

a. *compensation*—wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the income tax regulations), and excluding the following:

i. employer contributions [other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)] to a plan of deferred compensation (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified);

ii. amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

iii. amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option;

iv. other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125);

v. other items of remuneration that are similar to any of the items listed in Clauses i-iv above.

b. For any self-employed individual, compensation shall mean earned income.

c. Except as provided herein, for limitation years beginning after December 31, 1991, compensation for a limitation year is the compensation actually paid or made available during such limitation year.

d. For limitation years beginning on or after July 1, 2007, compensation for a limitation year shall also include compensation paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

e. Any payments not described above shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

f. For limitation years beginning after December 31, 1997, compensation paid or made available during such limitation year shall include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

g. For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

Defined Benefit Compensation Limitation—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment, the defined benefit compensation limitation is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §201.G

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, the defined benefit dollar limitation is $160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

Employer—for purposes of this chapter, employer shall mean the employer that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses [as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)], or affiliated service groups [as defined in section 414(m)] of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to section 414(o) of the *Internal Revenue Code*.

Formerly Affiliated Plan of the Employer—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose, cessation of affiliation means the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

High Three-Year Average Compensation—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's high three-year average compensation shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

Limitation Year—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same limitation year. If the limitation year is amended to a different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.

Maximum Permissible Benefit—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under

the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5-percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i) Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §201.F.11.b.ii.(b).(i). and the defined benefit dollar limitation (adjusted under §201.F.11.a. for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b., no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the maximum permissible benefit if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed $10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than one year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under Section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

Predecessor Employer—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a predecessor employer with respect to the member in the plan. A former entity that antedates the

employer is also a predecessor employer with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

Severance from Employment—an employee has a severance from employment when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a severance from employment if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

Year of Participation—the member shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a year of participation with respect to that period. In addition, for a member to receive a year of participation (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than one year of participation be credited for any 12-month period.

Year of Service—for purposes of Subsection 201.G, the member shall be credited with a year of service (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a predecessor employer.

G. Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the predecessor employer.

5. Special Rules. The limitations of this chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2284 (August 2013).

§202. Required Minimum Distributions

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

a. the member's life;

b. if the member is married, the life of the member's designated beneficiary;

c. the member's life expectancy;

d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph:

Spouse—that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 years and six months. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:2077 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2289 (August 2013).

§203. Direct Rollovers

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any

portion of an "eligible rollover distribution", as specified by the distributee, paid directly to an "eligible retirement plan," as those terms are defined below.

B. The following definitions shall apply.

Direct Rollover—a payment by the system to the eligible retirement plan specified by the distributee.

Distributee—shall include:

a. a member or former member;

b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of *eligible retirement plan* in this Section.

Eligible Retirement Plan—any of the following:

a. an individual retirement account described in Section 408(a) of the *Internal Revenue Code*;

b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

c. any distribution which is made upon hardship of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2290 (August 2013).

§204. Annual Compensation Limitation

A. Unless otherwise provided in this Chapter, the accrued benefit of each section 401(a)(17) employee as that term is defined below shall be the greater of the following:

1. the employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals;

2. the sum of:

a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the *Code of Federal Regulations*;

b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. *A Section 401(a)(17) Employee*—any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded $150,000.

C. If an employee is not a section 401(a)(17) employee, his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2290 (August 2013).

§205. General

A. The assets of this system's pension plan shall be held for the exclusive benefit of the employees who are or become participating members of the system and their survivors and beneficiaries, and of retirees and their survivors and beneficiaries. No part of the corpus, the system's pension plan assets held in trust, or income of the system's pension plan shall be used for or diverted to purposes other than the exclusive benefit of such members and retirees, or their survivors or beneficiaries, whether by operation or natural termination of the system's pension plan, by power of revocation or amendment, by the happening of a contingency, by collateral assignment, or by any other means.

B. The retirement benefit earned by a member shall be fully vested and nonforfeitable no later than the date he

becomes eligible to retire. Benefits of affected members shall also become vested and nonforfeitable to the extent funded, upon the termination or partial termination of the system's pension plan or the complete discontinuance of contributions thereto.

C. Forfeitures resulting from a termination of employment or a withdrawal of a member's own contributions may not be used to increase benefits to remaining members. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Registrars of Voters Employees' Retirement System, LR 39:2291 (August 2013).

Chapter 3. Final Average Compensation

§301. Calculation of Post-Drop Final Average Compensation

A.1. A member must work for a three month period post-DROP in order to have the member's final average compensation recalculated for any and all purposes including but not limited to:

a. calculating the value of creditable service post-DROP;

b. calculating any leave that is converted post-DROP; and

c. for all other actuarial and benefit calculation purposes.

2. Otherwise, the member's final average compensation to be utilized for service, leave, and all other actuarial and benefit calculation purposes post-DROP shall be the final average compensation used to calculate the DROP benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093 and R.S. 11:2144(I).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Retirement System, LR 42:1960 (November 2016).

§303. Actuarial Equivalent

A. As provided under R.S. 11:2031(2), actuarial equivalent shall be defined using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.50 percent per annum.

2. Annuity rates shall be determined on the basis of RP-2000 Combined Healthy table set back three years for males and two years for females.

B. Effective July 1, 2016, as provided by R.S. 11:2031(2) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.00 percent per annum (except as provided below).

2. For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females for retirees and 85 percent males and 15 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 Disabled Lives tables unisexed based on 15 percent males and 85 percent females.

5. For DROP Account Balance lifetime annuity conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Tables set forward 1 year for males and unadjusted for females and projected with mortality improvement to 2030 using Scale AA, unisexed based on 15 percent males and 85 percent females with interest at 6 percent per annum.

C. Effective July 1, 2018, as provided by R.S. 11:2031(2) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 6.75 percent per annum (except as provided below).

2. For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females for retirees and 85 percent males and 15 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 15 percent males and 85 percent females.

5. For DROP Account Balance lifetime annuity conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Tables set forward 1 year for males and unadjusted for females and projected with mortality improvement to 2030 using Scale AA, unisexed based on 15 percent males and 85 percent females with interest at 5.75 percent per annum.

D. Effective July 1, 2019, as provided by R.S. 11:2031(2) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 6.50 percent per annum (except as provided below).

2. For Single Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 Combined Healthy tables set forward 1 year for males and unadjusted for females, unisexed based on 15 percent males and 85 percent females for retirees and 85 percent males and 15 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 15 percent males and 85 percent females.

5. For DROP Account Balance lifetime annuity conversions, mortality rates shall be based on the RP-2000 Healthy Annuitant Tables set forward 1 year for males and unadjusted for females and projected with mortality improvement to 2030 using Scale AA, unisexed based on 15 percent males and 85 percent females with interest at 5.5 percent per annum.

E. Thereafter, these assumptions shall be adopted by resolution of the board, based on recommendations of its actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2031(2).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Employees' Retirement System, LR 45:1209 (September 2019).

Title 58
RETIREMENT
Part XVIII. Municipal Police Employees' Retirement System

Chapter 1.*Internal Revenue Code* Provisions

§101. Limitation on Benefits

A. The limitations of this Chapter shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein.

B The annual benefit otherwise payable to a member under the plan at any time shall not exceed the maximum permissible benefit. If the benefit the member would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

C. If the member is, or has ever been, a member in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the member's annual benefits from all such plans may not exceed the maximum permissible benefit.

D. The application of the provisions of this Chapter shall not cause the maximum permissible benefit for any member to be less than the member's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Section 415 of the *Internal Revenue Code* in effect as of the end of the last limitation year beginning before July 1, 2007, as described in Section 1.415(a)-1(g)(4) of the income tax regulations.

E. The limitations of this Chapter shall be determined and applied taking into account the rules in section G

F. Definitions

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this article. For a member who has or will have distributions commencing at more than one annuity starting date, the *annual benefit* shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Chapter as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to section 1.401(a)-20, Q and A 10(d), and with regard to section 1.415(b)-1(b)(1)(iii)(B) and (C) of the income tax regulations.

a. No actuarial adjustment to the benefit shall be made for:

i. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the member's benefit were paid in another form;

ii. benefits that are not directly related to retirement benefits (such as a disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

iii. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to section 417(e)(3) of the *Internal Revenue Code* and would otherwise satisfy the limitations of this Chapter, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Chapter applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form. The determination of the annual benefit shall take into account Social Security supplements described in section 411(a)(9) of the *Internal Revenue Code* and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, but shall disregard benefits attributable to employee contributions or rollover contributions. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with §§101.F.1.b or 101.F.1.c.

b. Benefit Forms Not Subject to Section 417(e)(3)

i. The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Subparagraph F.1.b, if the form of the member's benefit is either:

(a). a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the

life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

(b). an annuity that decreases during the life of the member merely because of:

(i). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(ii). the cessation or reduction of Social Security supplements or qualified disability payments (as defined in section 401(a)(11)).

ii. Limitation years beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(a). the interest rate specified in La. R.S. 11:2225(D)(5) and the mortality table (or other tabular factor) specified in La. R.S. 11:2225(D)(5) for adjusting benefits in the same form; and

(b). a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

iii. Limitation Years beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(a). the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date.

c. Benefit Forms Subject to Section 417(e)(3). The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this Paragraph if the form of the member's benefit is other than a benefit form described in §101.F.1.b. In this case, the actuarially equivalent straight life annuity shall be determined as follows.

i. Annuity Starting Date in Plan Years Beginning After 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning after 2005, the actuarially equivalent straight life annuity is equal to the greatest of:

(a). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of computed using the interest rate specified in La. R.S. 11:2225(D)(5) and the mortality table (or other tabular factor) specified in La. R.S. 11:2225(D)(5) for adjusting benefits in the same form; and

(b). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5.5 percent interest rate assumption and the applicable mortality table; and

(c). the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using the applicable interest rate and the applicable mortality table, divided by 1.05.

ii. Annuity Starting Date in Plan Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a plan year beginning in 2004 or 2005, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greater annual amount:

(a). the interest rate specified in La. R.S. 11:2225(D)(5) and the mortality table (or other tabular factor) specified in La. R.S. 11:2225(D)(5) for adjusting benefits in the same form; and

(b). a 5.5 percent interest rate assumption and the applicable mortality table. If the annuity starting date of the member's benefit is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, the application of this §101.F.1.c shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the plan, taking into account the limitations of this Chapter, except that the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using whichever of the following produces the greatest annual amount:

(i). the interest rate specified in La. R.S. 11:2225(D)(5) and the mortality table (or other tabular factor) specified in La. R.S. 11:2225(D)(5) for adjusting benefits in the same form;

(ii). the applicable interest rate and the applicable mortality table; and

(iii). the applicable interest rate (as in effect on the last day of the last plan year beginning before January 1, 2004, under provisions of the plan then adopted and in effect) and the applicable mortality table.

Applicable Interest Rate—the rate of interest on 30-year treasury securities (or any subsequent rate used under section 417(e) of the *Internal Revenue Code*) as specified by the Internal Revenue Service for the lookback month. The lookback month applicable to the stability period is the

second calendar month preceding the first day of the stability period. The stability period is the plan year that contains the annuity starting date for the distribution and for which the *applicable interest rate* remains constant.

Applicable Mortality Table—the *applicable mortality table* within the meaning of section 417(e)(3)(B) of the *Internal Revenue Code*.

415 Safe-Harbor Compensation—

a. *Compensation* is defined as wages, salaries, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, *compensation* for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in section 1.62-2(c) of the income tax regulations), and excluding the following.

i. Employer contributions (other than elective contributions described in section 402(e)(3), section 408(k)(6), section 408(p)(2)(A)(i), or section 457(b)) to a plan of deferred *compensation* (including a simplified employee pension described in section 408(k) or a simple retirement account described in section 408(p), and whether or not qualified) to the extent such contributions are not includible in the member's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred *compensation* (whether or not qualified).

ii. Amounts realized from the exercise of a nonstatutory stock option (that is, an option other than a statutory stock option as defined in section 1.421-1(b) of the income tax regulations), or when restricted stock (or property) held by the member either becomes freely transferable or is no longer subject to a substantial risk of forfeiture.

iii. Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option.

iv. Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the member and are not salary reduction amounts that are described in section 125).

v. Other items of remuneration that are similar to any of the items listed in Clauses i-iv above.

b. For any self-employed individual, *compensation* shall mean earned income.

c. Except as provided herein, for limitation years beginning after December 31, 1991, *compensation* for a limitation year is the *compensation* actually paid or made available during such limitation year.

d. For limitation years beginning on or after July 1, 2007, *compensation* for a limitation year shall also include *compensation* paid by the later of 2 1/2 months after an member's severance from employment with the employer maintaining the plan or the end of the limitation year that includes the date of the member's severance from employment with the employer maintaining the plan, if:

i. the payment is regular *compensation* for services during the member's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer;

ii. the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

iii. the payment is received by the member pursuant to a nonqualified unfunded deferred *compensation* plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

e. Any payments not described above shall not be considered *compensation* if paid after severance from employment, even if they are paid by the later of 2 1/2 months after the date of severance from employment or the end of the limitation year that includes the date of severance from employment. Back pay, within the meaning of section 1.415(c)-2(g)(8), shall be treated as *compensation* for the limitation year to which the back pay relates to the extent the back pay represents wages and *compensation* that would otherwise be included under this definition.

f. For limitation years beginning after December 31, 1997, compensation paid or made available during such limitation year shall include amounts that would otherwise be included in *compensation* but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).

g. For limitation years beginning after December 31, 2000, *compensation* shall also include any elective amounts that are not includible in the gross income of the member by reason of section 132(f)(4).

Defined Benefit Compensation Limitation—100 percent of a member's high three-year average compensation, payable in the form of a straight life annuity. In the case of a member who is rehired after a severance from employment, the *defined benefit compensation limitation* is the greater of 100 percent of the member's high three-year average compensation, as determined prior to the severance from employment or 100 percent of the member's high three-year average compensation, as determined after the severance from employment under §101.G

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, the *defined benefit dollar limitation* is $160,000, automatically adjusted under section 415(d) of the *Internal Revenue Code*, effective

January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a member's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year.

Employer—for purposes of this Chapter, *employer* shall mean the *employer* that adopts this plan, and all members of a controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), all commonly controlled trades or businesses (as defined in section 414(c), as modified, except in the case of a brother-sister group of trades or businesses under common control, by section 415(h)), or affiliated service groups (as defined in section 414(m)) of which the adopting *employer* is a part, and any other entity required to be aggregated with the employer pursuant to section 414(o) of the *Internal Revenue Code*.

Formerly Affiliated Plan of the Employer—a plan that, immediately prior to the cessation of affiliation, was actually maintained by the employer and, immediately after the cessation of affiliation is not actually maintained by the employer. For this purpose, *cessation of affiliation* means the event that causes an entity to no longer be considered the employer, such as the sale of a member controlled group of corporations, as defined in section 414(b) of the *Internal Revenue Code*, as modified by section 415(h), to an unrelated corporation, or that causes a plan to not actually be maintained by the employer, such as transfer of plan sponsorship outside a controlled group.

High Three-Year Average Compensation—the average compensation for the three consecutive years of service (or, if the member has less than three consecutive years of service, the member's longest consecutive period of service, including fractions of years, but not less than one year) with the employer that produces the highest average. In the case of a member who is rehired by the employer after a severance from employment, the member's *high three-year average compensation* shall be calculated by excluding all years for which the member performs no services for and receives no compensation from the employer (the break period) and by treating the years immediately preceding and following the break period as consecutive. A member's compensation for a year of service shall not include compensation in excess of the limitation under section 401(a)(17) of the *Internal Revenue Code* that is in effect for the calendar year in which such year of service begins.

Limitation Year—a fiscal year, from July 1 to June 31. All qualified plans maintained by the employer must use the same *limitation year*. If the *limitation year* is amended to a different 12-consecutive month period, the new *limitation year* must begin on a date within the *limitation year* in which the amendment is made.

Maximum Permissible Benefit—the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided below).

a. Adjustment for Less than 10 Years of Participation or Service. If the member has less than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction:

i. the numerator of which is the number of years (or part thereof, but not less than one year) of participation in the plan; and

ii. the denominator of which is 10. In the case of a member who has less than 10 years of service with the employer, the defined benefit compensation limitation shall be multiplied by a fraction:

(a). the numerator of which is the number of years (or part thereof, but not less than one year) of Service with the employer; and

(b). the denominator of which is 10.

b. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62 or after Age 65. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the member's benefit is before age 62 or after age 65. If the annuity starting date is before age 62, the defined benefit dollar limitation shall be adjusted under Clause b.i of this Paragraph, as modified by Clause b.iii of this Paragraph. If the annuity starting date is after age 65, the defined benefit dollar limitation shall be adjusted under Clause b.ii of this Paragraph, as modified by Clause b.iii of this Paragraph.

i. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement before Age 62

(a). Limitation Years Beginning before July 1, 2007. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under §101.F.11.a. for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5 percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning on or After July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately

commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for the annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the member's annuity starting date is the lesser of the limitation determined under Division b.i.(b).(i) of this Paragraph and the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this article.

ii. Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement after Age 65

(a). Limitation Years Beginning Before July 1, 2007. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required) with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i). the interest rate and the mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; or

(ii). a 5-percent interest rate assumption and the applicable mortality table.

(b). Limitation Years Beginning Before July 1, 2007

(i). Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation (adjusted under Subparagraph a of this Paragraph for years of participation less than 10, if required), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table for that annuity starting date (and expressing the member's age based on completed calendar months as of the annuity starting date).

(ii). Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 65 and the Age of Benefit Commencement. If the annuity starting date for the member's benefit is after age 65 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limitation at the member's annuity starting date is the lesser of the limitation determined under §101.F.11.b.ii.(b).(i) and the defined benefit dollar limitation (adjusted under §101.F.11.a for years of participation less than 10, if required) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of this article. For this purpose, the adjusted immediately commencing straight life annuity under the plan at the member's annuity starting date is the annual amount of such annuity payable to the member, computed disregarding the member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the plan at age 65 is the annual amount of such annuity that would be payable under the plan to a hypothetical member who is age 65 and has the same accrued benefit as the member.

iii. Notwithstanding the other requirements of this Subparagraph F.10.b, no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a member's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the member prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the member's death if the plan does not charge members for providing a qualified preretirement survivor annuity, as defined in section 417(c) of the *Internal Revenue Code*, upon the member's death.

c. Minimum Benefit Permitted. Notwithstanding anything else in this section to the contrary, the benefit otherwise accrued or payable to a member under this plan shall be deemed not to exceed the *maximum permissible benefit* if:

i. the retirement benefits payable for a limitation year under any form of benefit with respect to such member under this plan and under all other defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer do not exceed $10,000 multiplied by a fraction:

(a). the numerator of which is the member's number of years (or part thereof, but not less than 1 year) of service (not to exceed 10) with the employer; and

(b). the denominator of which is 10; and

ii. the employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which the member participated (for this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h), and accounts for postretirement medical benefits established under section 419A(d)(1) are not considered a separate defined contribution plan).

Predecessor Employer—if the employer maintains a plan that provides a benefit which the member accrued while performing services for a former employer, the former employer is a *predecessor employer* with respect to the member in the plan. A former entity that antedates the employer is also a *predecessor employer* with respect to a member if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

Severance from Employment—an employee has a *severance from employment* when the employee ceases to be an employee of the employer maintaining the plan. An employee does not have a *severance from employment* if, in connection with a change of employment, the employee's new employer maintains the plan with respect to the employee.

Year of Participation—the member shall be credited with a *year of participation* (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met:

a. the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period; and

b. the member is included as a member under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a *year of participation* credited to the member shall equal the amount of benefit accrual service credited to the member for such accrual computation period. A member who is permanently and totally disabled within the meaning of section 415(c)(3)(C)(i) of the *Internal Revenue Code* for an accrual computation period shall receive a *year of participation* with respect to that period. In addition, for a member to receive a *year of participation* (or part thereof) for an accrual computation period, the plan must be established no later than the last day of such accrual computation period. In no event shall more than 1 *year of participation* be credited for any 12-month period.

Year of Service—for purposes of Subsection 101.G, the member shall be credited with a *year of service* (computed to fractional parts of a year) for each accrual computation period for which the member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, taking into account only service with the employer or a predecessor employer.

G. Other Rules

1. Benefits under Terminated Plans. If a defined benefit plan maintained by the employer has terminated with sufficient assets for the payment of benefit liabilities of all plan members and a member in the plan has not yet commenced benefits under the plan, the benefits provided pursuant to the annuities purchased to provide the member's benefits under the terminated plan at each possible annuity starting date shall be taken into account in applying the limitations of this article. If there are not sufficient assets for the payment of all members' benefit liabilities, the benefits taken into account shall be the benefits that are actually provided to the member under the terminated plan.

2. Benefits Transferred from the Plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are not treated as being provided under the transferor plan (but are taken into account as benefits provided under the transferee plan). If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan that is not maintained by the employer and the transfer is not a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the transferred benefits are treated by the employer's plan as if such benefits were provided under annuities purchased to provide benefits under a plan maintained by the employer that terminated immediately prior to the transfer with sufficient assets to pay all members' benefit liabilities under the plan. If a member's benefits under a defined benefit plan maintained by the employer are transferred to another defined benefit plan in a transfer of distributable benefits pursuant section 1.411(d)-4, Q and A-3(c), of the income tax regulations, the amount transferred is treated as a benefit paid from the transferor plan.

3. Formerly Affiliated Plans of the Employer. A formerly affiliated plan of an employer shall be treated as a plan maintained by the employer, but the formerly affiliated plan shall be treated as if it had terminated immediately prior to the cessation of affiliation with sufficient assets to pay members' benefit liabilities under the plan and had purchased annuities to provide benefits.

4. Plans of a Predecessor Employer. If the employer maintains a defined benefit plan that provides benefits accrued by a member while performing services for a predecessor employer, the member's benefits under a plan maintained by the predecessor employer shall be treated as provided under a plan maintained by the employer. However, for this purpose, the plan of the predecessor employer shall be treated as if it had terminated immediately prior to the event giving rise to the predecessor employer relationship with sufficient assets to pay members' benefit liabilities under the plan, and had purchased annuities to provide benefits; the employer and the predecessor employer shall be treated as if they were a single employer immediately prior to such event and as unrelated employers immediately after the event; and if the event giving rise to the predecessor relationship is a benefit transfer, the transferred benefits shall be excluded in determining the benefits provide under the plan of the predecessor employer.

5. Special Rules. The limitations of this Chapter shall be determined and applied taking into account the rules in section 1.415(f)-1(d), (e) and (h) of the income tax regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 39:1482 (June 2013).

§102. Required Minimum Distributions

A.1. Unless the member has elected otherwise on or before December 31, 1983, the entire benefit of a member shall be distributed over a period not longer than the longest of the following periods:

a. the member's life;

b. if the member is married, the life of the member's designated beneficiary;

c. the member's life expectancy;

d. the joint life and last survivor life expectancy of the member and his designated beneficiary.

2. If the member is married and his spouse survives him, the designated beneficiary for at least a qualified joint and survivor annuity and 50 percent of his deferred retirement option plan account shall be his spouse, unless such spouse has consented to the contrary in writing before a notary public. For purposes of this Paragraph, *spouse* shall mean that person who is married to the member under a legal regime of community of acquets and gains on his effective date of retirement or effective date of participation in the deferred retirement option plan, whichever is earlier.

3. If the member was a member on or before December 31, 1983, he shall be deemed to have made the election referred to herein. If a member dies after the commencement of his benefits, the remaining portion of his benefit shall be distributed at least as rapidly as before his death. Payment of survivor benefits shall not be considered to violate this provision.

B.1. If the member dies before his benefit has commenced the remainder of such interest shall be distributed to the member's beneficiary within five years after the date of such member's death.

2. Paragraph 1 of this Subsection shall not apply to any portion of a member's benefit which is payable to or for the benefit of a designated beneficiary or beneficiaries, over the life of or over the life expectancy of such beneficiary, so long as such distributions begin not later than one year after the date of the member's death, or, in the case of the member's surviving spouse, the date the member would have attained the age of 70 1/2. If the designated beneficiary is the member's surviving spouse and if the surviving spouse dies before the distribution of benefits commences, then Paragraph 1 of this Subsection shall be applied as if the surviving spouse were the member. If the designated beneficiary is a child of the member, for purposes of satisfying the requirement of Paragraph 1 of this Subsection, any amount paid to such child shall be treated as if paid to the member's surviving spouse if such amount would become payable to such surviving spouse, if alive, upon the child's reaching age eighteen or, if later, upon the child's completing a designated event. For purposes of the preceding sentence, a designated event shall be the later of the date the child is no longer disabled, or the date the child ceases to be a full-time student or attains age 23, if earlier.

3. Paragraph 1 of this Subsection shall not apply if the distribution of the member's interest has commenced and is for a term certain over a period permitted in Subsection A of this Section.

4. Paragraph 1 of this Subsection shall not apply if the member has elected otherwise on or before December 31, 1983, or such later date to which such election period shall be subject under *Internal Revenue Code* section 401(a).

C. As to any benefit payable by the retirement system which is not optional as of December 31, 1983, the member shall be considered to have made the election referred to in Subsections A and B of this Section, if he was a member on or before such time.

D. If by operation of law or by action of the board of trustees, a survivor benefit is payable to a specified person or persons, the member shall be considered to have designated such person as an alternate beneficiary hereunder. If there is more than one such person, then the youngest disabled child shall be considered to have been so designated, or, if none, then the youngest person entitled to receive a survivor benefit shall be considered to have been so designated. The designation of a designated beneficiary hereunder shall not prevent payment to multiple beneficiaries but shall only establish the permitted period of payments.

E. Payment in accordance with the survivor benefit provisions of R.S. 11:2220.4 and 2222 shall be deemed not to violate Subsections A and B of this Section.

F. This Section shall be effective for members of the system who complete any service under the system on or after July 1, 1992, with employers contributing to the system.

G. Distributions from the system shall be made in accordance with the requirements set forth in *Internal Revenue Code* section 401(a)(9), including the minimum distribution incidental benefit rules applicable thereunder.

H.1. A member's benefits shall commence to be paid on or before the required beginning date.

2. The required beginning date shall be April 1 of the calendar year following the later of the calendar year in which the member attains 70 1/2 years of age, or the calendar year in which the employee retires. Effective for plan years beginning on or after January 1, 1998, the required beginning date shall be April 1 of the year following the later of the year the member attained 70 1/2 or the year he terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 39:1487 (June 2013).

§103. Direct Rollovers

A. Notwithstanding any other provision of law to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an "eligible rollover distribution," as specified by the distributee, paid directly to an "eligible retirement plan", as those terms are defined below.

B. The following definitions shall apply.

Direct Rollover—a payment by the system to the eligible retirement plan specified by the distributee.

Distributee—shall include:

a. a member or former member;

b. the member's or former member's surviving spouse, or the member's or former member's former spouse with whom a benefit or a return of employee contributions is to be divided pursuant to R.S. 11:291(B), with reference to an interest of the member or former spouse;

c. the member's or former member's non-spouse beneficiary, provided the specified distribution is to an eligible retirement plan as defined in Subparagraphs a and b of the definition of eligible retirement plan in this Section.

Eligible Retirement Plan—any of the following:

a. an individual retirement account described in section 408(a) of the *Internal Revenue Code*;

b. an individual retirement annuity described in section 408(b) of the *Internal Revenue Code*;

c. an annuity plan described in section 403(a) of the *Internal Revenue Code*;

d. a qualified trust as described in section 401(a) of the *Internal Revenue Code*, provided that such trust accepts the member's eligible rollover distribution;

e. an eligible deferred compensation plan described in section 457(b) of the *Internal Revenue Code* that is maintained by an eligible governmental employer, provided the plan contains provisions to account separately for amounts transferred into such plan; and

f. an annuity contract described in section 403(b) of the *Internal Revenue Code*.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an *eligible rollover distribution* does not include:

a. any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or life expectancy of the member, or the joint lives or joint life expectancies of the member and the member's designated beneficiary, or for a specified period of ten years or more;

b. any distribution to the extent that such distribution is required under section 401(a)(9) of the United States *Internal Revenue Code*; and

c. any distribution which is made upon hardship of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 39:1488 (June 2013).

§104. Annual Compensation Limitation

A. Unless otherwise provided in this Chapter, the accrued benefit of each "section 401(a)(17) employee" as that term is defined below shall be the greater of the following:

1. The employee's accrued benefit determined with respect to the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's total years of service taken into account for purposes of benefit accruals.

2. The sum of:

a. the employee's accrued benefit as of the last day of the last plan year beginning before January 1, 1996, frozen in accordance with the provisions of section 1.401(a)(4)-1 through 1.401(a)(4)-13 of the *Code of Federal Regulations*;

b. the employee's accrued benefit determined under the benefit formula applicable for the plan year beginning on or after January 1, 1996, as applied to the employee's years

of service credited to the employee for plan years beginning on or after January 1, 1996, for purposes of benefit accruals.

B. A *section 401(a)(17) employee* shall mean any employee whose current accrued benefit, as of a date on or after the first day of the first plan year beginning on or after January 1, 1996, is based on compensation for a year beginning prior to the first day of the first plan year beginning on or after January 1, 1996, that exceeded $150,000.

C. If an employee is not a "section 401(a)(17) employee", his accrued benefit in this system shall not be based upon compensation in excess of the annual limit of section 401(a)(17) of the United States *Internal Revenue Code* as amended and revised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 39:1489 (June 2013).

§105. Vesting of Benefits at Plan Termination

A. In the event of termination or partial termination of the system's pension plan, accrued benefits of affected members shall become vested and nonforfeitable to the extent funded as of the date of the termination or partial termination of the plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 42:70 (January 2016).

§106. Participation in Group Trusts

A. To the extent it does not affect the tax qualified status of the retirement system, and is permitted by United States Internal Revenue Service Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance), the board of trustees is authorized to:

1. for investment purposes, transfer assets of the retirement system to, and pool such assets in, one or more group trust(s); and

2. adopt one or more group trust(s), and/or the terms of such group trust(s), as part of the retirement system to the extent necessary to meet the requirements of applicable law, by executing appropriate participation and/or adoption agreements with the trustee(s) of the group trust(s).

B. For purposes of transferring assets of the retirement system to a trustee(s) of any current or future group trust(s), by the execution of such group trust's participation agreement(s), the board of trustees specifically adopts the trustee's declaration of the group trust as part the retirement system to the extent of its interest in the group trust, or as is required by applicable law, for the purposes of such investment and compliance with Revenue Ruling 81-100, 1981-1 CB 326 (as clarified and modified by Revenue Ruling 2004-67, 2004-2 CB 28, and modified by Revenue Ruling 2011-1, 2011-2 IRB 251, or any subsequent guidance).

C. For purposes of valuation, the value of the interest maintained by the retirement system in a group trust shall be determined in accordance with the governing instrument of the group trust to determine the fair market value of the portion of the group trust held for the retirement system, determined in accordance with generally recognized valuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1106 (August 2020).

Chapter 3. Deferred Retirement Option Plan (DROP)

§301. Definitions

A. For the purposes of R.S. 11:2221, the following definitions shall apply.

True Annuity—a retirement benefit that is payable in equal, unreduced monthly payments during the member's lifetime, with no further payments to any other person after the member's death. This may sometimes be referred to as the *maximum benefit* or *maximum plan*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2221(N).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1106 (August 2020).

§303. Withdrawals and Interest

A. Requested withdrawals from Deferred Retirement Option Program accounts that would leave a balance in that account of $1,000 or less shall be processed as a request for disbursement of the entire balance. All such withdrawal requests shall result in the closing of the account. The system may, at its option, conduct audits to identify DROP accounts with a balance of $1,000 or less and may disburse the entire amount to the person in whose name the account exists or to their beneficiary after giving notice of at least 30 days prior to disbursement.

B. If an individual who elected to earn interest at a rate of one-half of one percent below the percentage rate of return of the system's investment portfolio as certified by the actuary in his yearly valuation report transfers or rolls over all funds in his account to another provider during the year, then the total amount of interest credited shall be disbursed to that individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1902 (December 2021).

Chapter 5. Military Service Purchases

§501. Service Credit

A. This section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S. C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S. C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 11:153(I).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1107 (August 2020).

Chapter 7. Renunciation of Benefits

§701. Terms and Conditions of Renunciation of Benefit

A. Any person eligible to receive, or receiving, a benefit from the Municipal Police Employees' Retirement System may renounce such benefit under the following terms and conditions.

1. A base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment of inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

2. If more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

3. If the party making the renunciation is married, the spouse must join in the renunciation.

4. If the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:2224(C).

5. If the person making the renunciation is legally separated or divorced but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

6. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

7. If a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

8. A renunciation must be made on a form provided by MPERS and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by MPERS.

9. A person revoking or participating in renunciation of a benefit must hold MPERS harmless from such action.

10. A renunciation may not be used to terminate active participation in MPERS.

11. Amounts credited to a DROP account cannot be renounced.

12. A benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

13. Only those who have selected the maximum benefit or Option 1 under R.S. 11:2224(A) may renounce their entire monthly benefit.

B. MPERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2220.4.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 46:1107 (August 2020).

Chapter 9. Survivor Benefits

§901. Definitions

A. For the purposes of R.S. 11:2220(B), *injury sustained in the line of duty* shall mean an injury or illness determined to arise out of any activity performed in the course and scope of the member's official duties.

B. To establish eligibility for death or disability benefits in connection with a member's death or disability due to COVID-19 or any other contagious disease that is spread in a similar manner by a virus, evidence must be presented to show that it is more likely than not that the illness resulted from the member's exposure to the virus that caused the disease, while performing an official duty. The board of trustees must find that the evidence shows a member with COVID-19 or any other contagious disease that is spread in

a similar manner by a virus contracted it in the line of duty when:

1. the member was engaged in an official duty and circumstances indicate that it was medically possible that the member was exposed to the virus while so engaged; and

2. the member contracted the illness within a time-frame where it was medically possible to contract the illness from that exposure and the illness is listed as a cause of death on the member's death certificate. The board of trustees shall determine whether an illness resulted from the member's exposure while performing an official duty when there has not been a determination by a board-certified physician. Additionally, if a member makes a claim under the Louisiana Workers' Compensation Act, it must have been determined that it is a compensable claim.

C. The procedure for determining whether a member's death occurred in the line of duty shall be as follows: If a survivor indicates on the appropriate form that the death resulted from an injury sustained in the line of duty, the system staff shall obtain documentation from the member's employer regarding the cause of the member's death. The executive director shall classify the death as resulting from an injury sustained the line of duty if documentation from the member's employer and the survivor and the member's death certificate all demonstrate that the member's death was caused by an injury sustained in the line of duty. In all other cases, the staff shall report its findings to the board of trustees at the first board of trustees meeting that occurs following 30 days of receipt of documentation. Any motion to approve survivor benefits of a member killed in the line of duty shall contain findings of fact and a conclusion of eligibility. The executive director and the board of trustees shall apply these procedures in a manner consistent with their fiduciary duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1899 (December 2021).

Chapter 11. Reinstated Employees

§1101. Purchases of Service by Reinstated Employees

A.1.

When a member whose employment was terminated applies to the civil service board or a court of law for reinstatement, the member shall notify the system within three days of such application.

2. If the member retired and participated in the Deferred Retirement Option Plan prior to termination, the member shall not withdraw any funds from the member's DROP before a final legal determination has been made regarding eligibility for reinstatement.

B. When a member is reinstated to a position by the civil service or a court of law, the member is entitled to receive retirement service credit for the period of time prior to reinstatement provided payment in accordance with Subsection C is made to the system within 90 days of the date the system notifies the employer of the amount due for the reinstatement period.

C.1. If reinstated, the member shall pay an amount equal to the current employee's contributions based on the earned compensation for the reinstatement period. The employer shall pay an amount equal to the actuarial cost of a purchase of the service credit for which contributions were not timely paid, as calculated by the system's actuary pursuant to R.S. 11:158(C), less the amount owed by the employee. The employer shall also reimburse the system for any legal and actuarial fees paid by the system in the calculation or collection of amounts.

2. The member shall repay any retirement benefits received prior to reinstatement, plus interest at the actuarial assumed rate of return, calculated from the date each payment was made by the system.

D. A reinstated employee who refunded his contributions during the time for which he was reinstated shall pay an amount equal to the actuarial cost of a purchase of the service credit for which contributions were not timely paid, as calculated by the system's actuary pursuant to R.S. 11:158(C), to the system within 90 days of the date the system notifies the employee of the amount due. The employee shall also reimburse the system any legal and actuarial fees paid by the system in the calculation or collection of amounts. If the member does not pay the amounts required by this Subsection within 90 days of the date the system notifies the employee of the amount due, no service credit will be granted, and the reinstatement period shall not be included in the benefit calculation unless the member subsequently purchases the service credit in accordance with R.S. 11:158(C).

E. The employer shall provide the system with a report of earnings on a monthly basis for the period for the reinstatement period.

F. The employer may submit any amounts due to the system on the employee's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1899 (December 2021).

Chapter 13. Disability Retirement

§1301. Qualifications for Disability Retirement

A. On behalf of the board of trustees, the executive director is authorized and directed to designate, under R.S. 11:219, outside physicians in any area of medical specialty and from any area of the state either to review case histories or to conduct regular or appeal examinations of disability retirement applicants and beneficiaries.

B. No disability benefits will be considered certified by the board of trustees until the board-designated physician provides sufficient information for the executive director to determine whether the applicant is eligible for disability benefits and the percentage of average final compensation

due to the applicant. If the member qualifies for any exemption from the provisions of R.S. 11:221(A) through (C), findings of fact supporting the qualification for the exemption shall be included in the certification by the board-designated physician. For purposes of R.S. 11:2223(B), *performance of his official duties* shall have the same meaning as injury sustained in the line of duty for survivor's benefits purposes.

C. When evaluating a mental disorder, the board-designated physician shall physically examine the patient, and the physician's diagnosis shall conform to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5), American Psychiatric Association (2013) or any subsequent revision thereof.

D. To be eligible for disability benefits under R.S. 11:2223(E)(2) for total loss of use of limb, a board-designated physician must certify that no effective function remains other than that which would be equally served by an amputation. The board-designated physician must also certify the date of the injury that caused the loss of the total use of the limb.

E. If an applicant fails to appear for a medical examination and the board-designated physician charges a cancellation fee, the applicant shall pay the cancellation fee. If the applicant fails to pay the cancellation fee, said fee, plus interest at the actuarial assumed rate of return calculated from the date of payment by the system to the board-designated physician, shall be deducted from any benefit amount determined to be due to the applicant.

F. If the board-designated physician's final certification decision is submitted when there are more than thirty days until the next board meeting, the executive director may, in his sole discretion, approve the disability retirement or file a written appeal on behalf of the board of trustees with the applicant. The executive director shall apply this procedure in a manner consistent with his fiduciary duty and shall report any approvals or appeals to the board of trustees at the next board meeting.

G Every disability beneficiary shall complete an annual attending physician statement (AAPS) by May 1 for the first five years following the disability retirement and once in every three years thereafter until the earlier of the date the disability attains age 62 or reaches the equivalent age of regular retirement (which depends on age and actual years of service). After reviewing the AAPS, the executive director may require a disability beneficiary to undergo a medical examination by a board-designated physician. Payments to any disability beneficiary who has not yet attained the equivalent age of regular retirement who refuses to submit to a required medical examination by a medical board physician designated by the board of trustees, shall be discontinued until the beneficiary complies. Failure to comply within one year of the request shall result in revocation of benefits by the board of trustees via written notification sent to the disability beneficiary by the executive director.

H. Beginning on May 1, 2021, the benefits of every disability beneficiary who has not attained age sixty-two or reached the equivalent age of regular retirement who has not been certified by a board-designated physician as exempt under R.S. 11:221(A)(2), 222, or 223 who fails to submit the earnings statement required under R.S. 11:221(C) by May first, shall beginning on June 1, be discontinued, without retroactive reimbursement, until the statement is filed. If the earnings statement is not received by the end of the calendar year, the executive director shall notify the retiree that all his rights in and to his disability pension have been revoked by the board of trustees pursuant to R.S. 11:221(C)(1).

I. Retroactive payments of suspended benefits under R.S. 11:220 and 11:221 must be requested in writing. The disability beneficiary must explain why any paperwork required was not submitted by the due date. All retroactive payments must be approved by the board of trustees. No retroactive payments shall be made to disability beneficiaries whose benefits were revoked.

J. Any disability beneficiary subject to R.S. 11:221(D)(1) who receives a financial award solely as a result of his disability shall be required to provide proof of the gross financial award, along with all legal and court costs associated with the settlement. The system staff shall request the actuary to convert the lump sum financial award, net of any related legal fees and court costs, into a whole life annuity equivalent based upon board-approved interest, mortality, and unisex assumptions. The recipient's disability benefit shall be offset by an amount equal to the difference between the inflation-adjusted final average compensation used to determine the disability benefit and the sum of the maximum monthly benefit, whole life annuity equivalent, and other outside earnings under R.S. 11:221. Disability applicants shall disclose any financial awards or pending claims for financial award on the application for disability retirement or within three days of filing a claim. Disability beneficiaries shall submit information regarding financial awards on the notarized annual earnings statement. Disability beneficiaries' benefits shall be reviewed annually for offset until the earlier of the beneficiaries' date of death or date of conversion to a regular retirement benefit. The monthly benefit of any disability beneficiary who is overpaid due to failure to report outside benefits or awards subject to R.S. 11:221(D) shall cease until fully recouped by the system, including interest at the actuarial assumed rate of return and actuarial fees paid by the system in the calculation or collection of amounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1897 (December 2021).

Chapter 15. Trustee Elections

§1501. Schedule

A. The executive director, in consultation with the board chair, shall adopt a schedule for the election process to be conducted as the need arises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1900 (December 2021).

§1502. Nominations

A.1. A nomination postcard containing information on how to request a nomination packet shall be sent to the member's postal or email address as recorded in the office of the system as of the end of the month preceding the mail out. Members will need to contact the firm conducting the election to request a nomination packet.

2. Upon request, a nomination packet containing a petition for candidacy, an election schedule, and the rules governing elections shall be sent to each member of the system who will be eligible to vote for a candidate in a vacant position.

3. A candidate for a vacant retiree position on the board of trustees must be a regular retiree who retired, as of the date nominations close, from a police department of a participating municipality with the district for which he is a candidate and must be domiciled within the district for which he is a candidate. Once elected, he must remain domiciled within that district in order to continue serving in that position.

4. Once received by the firm conducting the election, the board of trustees shall only accept the name of the candidate nominated by petition of at least ten members of the system (other than the member being nominated) who are active or retired, as applicable, from municipalities within the district representative of the trustee position to be filled and place such candidate on the ballot, provided said candidates meets the requirements for trustee. The printed name of those persons signing the nominating petition must be legible for purposes of verification. Unverifiable signatories shall not count toward the required total. Members signing the petition shall also supply the final four digits of their Social Security number. The person being nominated is solely responsible for verifying that all persons signing as nominators are actually members of the system. Given that not all Louisiana municipal police officers are members of this system, potential nominees are strongly encouraged to do all of the following:

a. call the system office to verify membership of each nominator;

b. submit signatures of more than ten nominators; and

c. email, fax, or mail their completed nomination packet and resume to the firm conducting the election at least two weeks prior to the deadline.

5. The nominee may attach a resume' giving their qualifications and background, which will be furnished to the voting members along with the ballot. This resume' is to be mailed along with the petition for candidacy to the firm conducting the election. The resume' shall be limited to one 8 1/2 by 11 sheet of paper, which may be printed on both sides. If the resume is not submitted to the firm conducting the election by the deadline or if any information is included on the member's resume' other than qualifications and background, as determined by the board of trustees, the resume' will not be furnished to the voting members.

6. All nomination petitions shall be received by the firm conducting the election on a scheduled date as determined prior to such election as shown in the election schedule.

7. Within a reasonable amount of time after the firm conducting the election receives the completed nomination petition, the firm shall notify the potential nominee via telephone and email that his petition was received and forwarded to the system.

8. The firm conducting the election shall forward the submitted petitions and resumes to the system staff as they are received. As soon as possible, the system staff shall ensure that the petitions are valid. If they are not valid, then the system staff shall notify the potential nominees of the deficiencies. Regardless, to be accepted, a valid nomination petition must be received by the firm conducting the election on a scheduled date as determined prior to such election as shown in the election schedule.

B. Nominees shall be first be certified by the board of trustees as eligible candidates. If specifically provided for in the election schedule or if the meeting at which the nominees are to be certified is cancelled, then the board chair shall certify eligible nominees.

C. If, after the conclusion of the nomination process, the number of candidates does exceed or is more than the number of open positions for which election is being held, the names of the certified nominees shall be placed on a ballot in alphabetical order. If an incumbent is seeking reelection, their name shall appear first on the ballot.

D. If, after the conclusion of the nomination process, the number of candidates does not exceed or is fewer than the number of open positions for which election is being held the qualified shall be elected and presented to the board or board chair, as applicable, for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1900 (December 2021).

§1503. Voting in General

A. An election postcard shall be mailed to each eligible member's postal or email address as recorded in the office of the system as of the end of the month preceding the mail out. The system will accept changes of address as corrected and will keep member files updated accordingly. If a member does not receive a postcard, another one may be sent out to him if requested in writing signed by him. If applicable, a change of address form must be completed. The postcard will contain instructions to request a paper ballot packet or to access the online voting from any internet capable device.

B. The system will accept changes of address as corrected and will keep member files updated accordingly. If a member does not receive a postcard, another one may be sent out to him if requested. If applicable, a change of address form must be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1901 (December 2021).

§1504. Online Voting

A. The voting website will consist of:

1. secure login page;

2. ballot page that includes the eligible candidates, as certified by the Board of Trustees, placed in alphabetical order. If an incumbent is seeking reelection, their name shall appear first on the ballot page;

3. links to bio/resume' for each candidate that submitted one;

4. vote confirmation page;

5. thank-you page; and

6. a logout button that redirects members to a URL of the organizations choosing.

B. Online Voting will be made available to members on the same day the election postcard is mailed to members, if postal ballots are used, and will remain open until the scheduled date as determined prior to such election as shown in the election schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1901 (December 2021).

§1505. Mail Voting

A. If the board of trustees elects to use postal voting, a postage prepaid envelope with the post office box of the firm conducting the election shall be shown as the addressee shall be provided to the member for the purpose of returning the ballot to the firm conducting the election. Only those ballots returned in the pre-addressed envelope will be counted. All ballots shall be received by the firm conducting the election on a scheduled date as determined prior to such election as shown in the election schedule.

B. An instruction sheet shall accompany the ballot packet which shall instruct the member to:

1. place a mark in front of the name of the candidate he wishes to vote for;

2. place the ballot in the postage prepaid mailing envelope and seal it; and

3. mail it to arrive at the Post Office Box of the firm conducting the election on or before the date specified in the instruction sheet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1901 (December 2021).

§1506. Election Results

A. Valid returned ballots will be opened and counted/tabulated at the office of the firm conducting the election. All candidates or their representatives may be present and observe the opening and tabulation of the ballots; however, no candidate or their representative may interfere with the opening and tabulation of the ballots. Notification must be provided to the firm conducting the election prior to the election mail date, of any authorized person interested in observing the opening and tabulation. The results will be available immediately after the tabulation of the ballots. After the board chair has accepted the certified ballot count and the executive director has published the official results on the system's website, the executive director shall notify the successful candidate of their election.

B. Ties affecting elected positions shall be decided by a coin toss held by the executive director in the presence of the candidates affected.

C. Appeals or grievances arising out of the election process shall be filed within 10 business days of the certification of the election results and will be heard by the Board of Trustees at the first board meeting held after publication of the election results on the board's website. Any further appeals or grievances will be resolved by the courts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 47:1901 (December 2021).

Chapter 17. Employers

§1701. Mandatory Enrollment of Employees Employed by 11:157 Employers

A. To comply with the mandatory enrollment provisions of R.S. 11:157(A), an employer must enroll each employee in the retirement system on the first day the employee qualifies for membership. The employer shall remit to the retirement system the required employee and employer contributions no later than the fifteenth day of the month following the first day the employee qualifies for membership. If the employee subsequently submits an affidavit under R.S. 11:157(C) before the end of the first calendar month during which the employee qualified for membership in the retirement system, a prorated amount of employer contributions shall be refunded to the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2225(A)(1).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Municipal Police Employees' Retirement System, LR 48:2190 (August 2022)

Title 58
RETIREMENT
Part XIX. Assessors' Retirement Fund

Chapter 1. General Provisions

§101. Compensation

A. Definitions. As provided under R.S. 11:1402(6), effective for limitation years beginning on or after July 1, 2007, compensation is hereby defined as follows.

Compensation—the regular pay of the member, not including any overtime or bonuses;

IRC §415 Compensation—wages, tips and other compensation required to be reported under §§6041, 6051 and 6052 of the *Internal Revenue Code* (IRC) (wages, tips and other compensation box on IRS Form W-2), during the calendar year of the plan (the plan year or determination period).

B. Exclusions from Compensation. Compensation shall not include:

1. any amounts that are not includible in IRC §415 compensation;

2. employer contributions to a plan of deferred compensation to the extent contributions are not included in gross income of the employee for the taxable year in which contributed, or on behalf of an employee to a simplified employee pension plan and any distributions form a plan of deferred compensation;

3. amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee becomes freely transferable or is no longer subject to a substantial risk of forfeitures;

4. amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

5. other amounts that receive special tax benefits, or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of a IRC § 403(b) annuity contract (whether or not the contributions are excludible from the gross income of the employee); and

6. pre-tax amounts contributed by the employee to an IRC §125 cafeteria plan.

C. Determination of IRC §415 Compensation. IRC §415 compensation must be determined without regard to any rules under IRC §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC §3401(a)(2)).

1. For plan years beginning on and after January 1, 2001:

a. IRC §415 compensation shall include elective amounts that are not includible in the gross income of the employee under IRC §§125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457.

2. For any plan year beginning after December 31, 2001:

a. IRC §415 compensation shall not exceed the maximum amount of compensation permitted to be taken into account under IRC §401(a)(17), $200,000 adjusted for the cost of living increases in accordance with IRC §401(a)(17)(B).

i. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

3. If a determination period consists of fewer than 12 months, as a result of a change in plan year or in the year of the termination of the plan:

a. the IRC §415 compensation limit is an amount equal to the otherwise applicable IRC §415 compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12;

4. If IRC §415 compensation for any prior determination period is taken into account in determining a participant's benefit for the current plan year, the IRC §415 compensation for such prior determination period is subject to the applicable IRC §415 compensation limit in effect for that prior period.

D. IRC §415 Compensation Paid After Severance from Employment

1. Adjusted Compensation. IRC §415 compensation shall be adjusted for the following types of compensation paid after a participant's severance from employment with the employer maintaining the plan (or any other entity that is treated as the employer pursuant to IRC §414(b), (c), (m) or (o)). However, amounts described in Paragraphs 2-8 of this Subsection may only be included in IRC §415 compensation to the extent such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance from employment that is not described in the following types of compensation is not considered IRC §415 compensation within the meaning of IRC §415(c)(3), even if payment is made within the time period specified above.

2. Regular Pay. IRC §415 compensation shall include regular pay after severance from employment if:

a. the payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

b. the payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the employer.

3. Leave Cashouts. Leave cashouts shall be included in IRC §415 compensation if:

a. those amounts would have been included in the definition of IRC §415 compensation if they were paid prior to the participant's severance from employment; and

b. the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if:

i. the participant would have been able to use the leave if employment had continued.

4. Deferred Compensation. IRC §415 compensation will include deferred compensation if the compensation would have been included in the definition of IRC §415 compensation if:

a. it had been paid prior to the participant's severance from employment; and

b. the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if:

i. the payment would have been paid at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income.

5. Qualified Military Service. IRC §415 compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in IRC §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

6. Permanently and Totally Disabled. IRC §415 compensation does not include compensation paid to a participant who is permanently and totally disabled (as defined in IRC §22(e)(3)).

7. Amounts Earned but not Paid. IRC §415 compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

8. Lost Wages. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate an employee for lost wages are IRC §415 compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in IRC §415 compensation.

E. Limitation Year

1. The limitation year:

a. shall be the calendar year of the fund;

b. is the period that is used to apply the limitations of IRC §415.

2. The limitation year may only be changed by amendment to the fund.

a. Furthermore, if the fund is terminated effective as of a date other than the last day of the fund's limitation year, then the fund is treated as if the fund had been amended to change its limitation year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(6), R.S. 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2187 (August 2013).

§103. Actuarial Equivalent

A. As provided under R.S. 11:1402(8), *actuarial equivalent* shall be defined using the following assumptions.

1. Interest shall be compounded annually at the rate of 7 1/2 percent per annum.

2. Annuity rates shall be determined on the basis of RP2000 combined healthy table set back three years for males and two years for females and uninsured.

B. Effective July 1, 2012, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.5 percent per annum.

2. Mortality rates shall be based on the RP-2000 combined healthy table unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.

C. Effective October 1, 2015, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.25 percent per annum (except as provided below).

2. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 35 percent males and 65 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 35 percent males and 65 percent females.

5. For drop balance life annuity conversions, mortality rates shall be based on the RP-2000 combined healthy table set back 3 years and unisexed based on 100 percent males and 0 percent females with interest at 6 percent per annum.

D. Effective October 1, 2016, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.00 percent per annum (except as provided below).

2. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables set forward 1 year for males with no set forward for females and unisexed based on 40 percent males and 60 percent females.

3. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables set forward 1 year for males with no set forward for females and unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 40 percent males and 60 percent females.

5. For drop balance life annuity conversions, mortality rates shall be based on the RP-2000 healthy annuitant table set back 1 year and projected to 2030 using scale AA, and unisexed based on 100 percent males and 0 percent females with interest at 6 percent per annum.

E. Thereafter, these assumptions shall be adopted by resolution of the board, based on recommendations of its actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(8), 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2188 (August 2013), amended LR 42:1959 (November 2016).

§105. Accumulated Contributions, Rollovers

A. As provided in R.S. 11:1457(C), the following definitions are revised.

2009 RMDs of a Participant or Beneficiary—amounts that the participant or beneficiary would have been required to receive as a required minimum distribution under IRC §401(a)(9) for the 2009 distribution calendar year.

Distributee—

a. a person who is distributed benefits from the plan and shall include an employee or former employee. In addition:

i. the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC §414(p), are *distributees* with regard to the interest of the spouse or former spouse;

ii. a nonspouse beneficiary as designated by the member.

Eligible Retirement Plan—

a. an eligible plan under IRC §457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this plan, an individual retirement account described in IRC §408(a), an individual retirement annuity described in IRC §408(b), an annuity plan described in IRC §403(a), an annuity contract described in IRC §403(b), or a qualified plan described in IRC §401(a), that accepts the distributee's eligible rollover distribution;

b. shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.

Eligible Rollover Distribution—any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

a.i. any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy of the distributee or the joint lives (or joint life expectancies) of the distribute and the distributee's designated beneficiary; or

ii. for a specified period of 10 years or more;

b. any distribution to the extent such distributions is required under IRC §401(a)(9);

c. any hardship distribution attributable to elective deferrals;

d. the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and

e. any other distribution(s) that is reasonably expected to total less than $200 during a year.

B. Eligible Retirement Plan

1. Effective for distributions on or after January 1, 2007:

a. eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiaries with the special rules for surviving spouse beneficiaries;

b. a Roth IRA is an eligible retirement plan with respect to distributions from the Fund that do not consist of

designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

C. Eligible Rollover Distribution

1. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

2. Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in IRC §408(a) or (b), or to a qualified defined contribution plan described in IRC §401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

3. Effective January 1, 2007, eligible rollover distributions shall include:

a. a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant;

b. after-tax contributions held in a plan qualified under IRC §401(a).

4. Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.

5. During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1404(A), R.S. 11:1457(C), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2188 (August 2013).

§107. Definitions

Full-Time—regularly scheduled to work a minimum of 35 hours per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(8), 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Assessors' Retirement Fund, LR 42:1960 (November 2016).

Chapter 3. Creditable Service

§301. Death Benefits for Qualified Military Service

A. As provided under R.S. 11:1411, the following shall apply.

1. In the case of a death occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in IRC §414(u)), the participant's beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment on account of death.

a. Moreover, the plan will credit the participant's qualified military service as service for vesting purposes, as though the participant had resumed employment under USERRA immediately prior to the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1404(A), R.S. 11:1411, and the provisions of the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

Chapter 5. Limitation on Payment of Benefits

§501. Suspension of Benefits

A. As provided in R.S. 11:1444(D), if a member has commenced to receive distributions under R.S. 11:1444 even though he is still employed with the employer, then such member shall be given the opportunity to elect to suspend such distributions so long as he is still employed. If such member later terminates employment, he shall commence to receive minimum distributions again and shall be entitled to elect the method of receiving such distributions, with his required beginning date to be determined based on the date of his termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1404(A), R.S. 11:1444(D), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

§503. Required Beginning Date

A. As provided in R.S. 11:1444(E), any required beginning date occurring in 2009 shall be extended for one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1444(E), R.S. 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

§505. Benefit Limitations

A. As provided under R.S. 11:1458, the following provisions shall apply for limitation years beginning on or after July 1, 2007.

1. Annual Benefit—Maximum Permissible Benefit. The annual benefit, otherwise payable to a participant under the plan, at any time shall not exceed the maximum permissible benefit. If the benefit the participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

2. Adjustment if in Two Defined Benefit Plans. If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the participant's annual benefit from all such plans may not exceed the maximum permissible benefit. Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the employer shall limit a participant's benefit in accordance with the terms of the plans.

3. Limits Grandfathered prior to July 1, 2007

a. The following sentence in Clause i of this Subparagraph applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to IRC § 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in U.S. Treasury regulations § 1.415(a)-1(g)(4).

i. The application of the provisions of this Part shall not cause the maximum permissible benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007.

AUTHORITY NOTE: Promulgated in accordance R.S. 11:1404(A), R.S. 11:1458, and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2189 (August 2013).

Chapter 7. Accumulated Contributions

§701. Benefit Limitations

A. Definitions. For purposes of Chapter 7, the following definitions apply.

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity.

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, $160,000, automatically adjusted under IRC §415(d), effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity:

a. the new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year;

b. the automatic annual adjustment of the defined benefit dollar limitation under IRC §415(d) shall apply to participants who have had a separation from employment.

B. Annual Benefit Determination

1. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Part.

2. For a participant who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Part as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates.

a. For this purpose, the determination of whether a new annuity starting date has occurred shall be made:

i. without regard to U.S. Treasury regulations §1.401(a)-20, Q and A-10(d); and

ii. with regard to U.S. Treasury regulations §1.415(b)1(b)(1)(iii)(B) and (C).

3. The determination of the annual benefit shall take into account Social Security supplements described in IRC §411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to U.S. Treasury regulations § 1.411(d)-4, Q and A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

C. Actuarial Adjustment. No actuarial adjustment to the benefit shall be made for:

1. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form;

2. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

3. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to IRC §417(e)(3) and would otherwise satisfy the limitations of this Part, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Part applicable at the annuity starting date, as increased in subsequent years pursuant to IRC §415(d);

a. for this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

D. Acturarial Equivalent—Straight Life Annuity

1. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Subparagraph a of this Paragraph.

a. The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this Subparagraph if the form of the participant's benefit is either:

i. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

ii. an annuity that decreases during the life of the participant merely because of:

(a). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(b). the cessation or reduction of Social Security supplements or qualified disability payments (as defined in IRC §401(a)(11)).

2. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount:

a. the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

b. 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

3. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

a. the annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and

b. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1404(A) and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2190 (August 2013).

§703. Rollover of Returned Contributions

A. As provided in R.S. 11:1445(G):

1. distributee, eligible retirement plan and eligible rollover distribution shall be defined in provisions adopted by the board pursuant to R.S. 11:1457;

2. an eligible rollover distribution shall be transferred in a direct rollover to an eligible retirement plan if so directed by the distributee. The board shall provide distributees with the opportunity to direct such direct rollover.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1404(A), R.S. 11:1445(G), R.S. 11:1457, and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2191 (August 2013).

§705. Repayment of Withdrawn Accumulated Contributions

A. As provided in R.S. 11:1455(B), payment may be made directly by the member or may be made on the member's behalf:

1. in a single sum payment by an individual retirement account; or

2. annuity; or

3. by a plan qualified under IRC §§401(a), 403(a), 403(b), or 457(g).

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1404(A), R.S. 11:1455(B), and the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Assessors' Retirement Fund, LR 39:2191 (August 2013).

Title 58
RETIREMENT
Part XXI. District Attorneys' Retirement System

Chapter 1. General Provisions

§101. Compensation

A. Definitions. As provided under R.S. 11:1581(5), effective for limitation years beginning on or after July 1, 2007, compensation is hereby defined as follows.

Compensation—the regular pay of the member, not including any overtime or bonuses.

DARS—the District Attorneys' Retirement System, as set forth in R.S. 11:1581 through 1702 and this Part.

IRC §415 Compensation—wages, tips and other compensation required to be reported under §§6041, 6051 and 6052 of the *Internal Revenue Code* (IRC) (wages, tips and other compensation box on IRS Form W-2), during the calendar year of the plan (the plan year or determination period).

B. Exclusions from Compensation. Compensation shall not include:

1. any amounts that are not includible in IRC §415 compensation;

2. employer contributions to a plan of deferred compensation to the extent contributions are not included in gross income of the employee for the taxable year in which contributed, or on behalf of an employee to a simplified employee pension plan and any distributions form a plan of deferred compensation;

3. amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by an employee becomes freely transferable or is no longer subject to a substantial risk of forfeitures;

4. amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option;

5. other amounts that receive special tax benefits, or contributions made by an employer (whether or not under a salary reduction agreement) towards the purchase of a IRC §403(b) annuity contract (whether or not the contributions are excludible from the gross income of the employee); and

6. pre-tax amounts contributed by the employee to an IRC §125 cafeteria plan.

C. Determination of IRC §415 Compensation. IRC §415 compensation must be determined without regard to any rules under IRC §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC §3401(a)(2)).

1. For plan years beginning on and after January 1, 2001:

a. IRC §415 compensation shall include elective amounts that are not includible in the gross income of the employee under IRC §§125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457.

2. For any plan year beginning after December 31, 2001:

a. IRC §415 compensation shall not exceed the maximum amount of compensation permitted to be taken into account under IRC §401(a)(17), $200,000 adjusted for the cost of living increases in accordance with IRC §401(a)(17)(B).

i. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

3. If a determination period consists of fewer than 12 months, as a result of a change in plan year or in the year of the termination of the plan.

a. The IRC §415 compensation limit is an amount equal to the otherwise applicable IRC §415 compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12.

4. If IRC §415 compensation for any prior determination period is taken into account in determining a participant's benefit for the current plan year, the IRC §415 compensation for such prior determination period is subject to the applicable IRC §415 compensation limit in effect for that prior period.

D. IRC §415 Compensation Paid After Severance from Employment

1. Adjusted Compensation. IRC §415 compensation shall be adjusted for the following types of compensation paid after a participant's severance from employment with the employer maintaining the plan (or any other entity that is treated as the employer pursuant to IRC §414(b), (c), (m) or (o)). However, amounts described in Paragraphs 2-8 of this Subsection may only be included in IRC §415 compensation to the extent such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance from employment that is not described in the following types of compensation is not considered IRC §415 compensation within the meaning of IRC §415(c)(3), even if payment is made within the time period specified above.

2. Regular Pay. IRC §415 compensation shall include regular pay after severance from employment if:

a. the payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

b. the payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the employer.

3. Leave Cashouts. Leave cashouts shall be included in IRC §415 compensation if:

a. those amounts would have been included in the definition of IRC §415 compensation if they were paid prior to the participant's severance from employment; and

b. the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if:

i. the participant would have been able to use the leave if employment had continued.

4. Deferred Compensation. IRC §415 compensation will include deferred compensation if the compensation would have been included in the definition of IRC §415 compensation and if:

a. it had been paid prior to the participant's severance from employment; and

b. the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if:

i. the payment would have been paid at the same time if the participant had continued in employment with the employer and only to the extent that the payment is includible in the participant's gross income.

5. Qualified Military Service. IRC §415 compensation does not include payments to an individual who does not currently perform services for the employer by reason of qualified military service (as that term is used in IRC §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

6. Permanently and Totally Disabled. IRC §415 compensation does not include compensation paid to a participant who is permanently and totally disabled (as defined in IRC §22(e)(3)).

7. Amounts Earned but not Paid. IRC §415 compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

8. Lost Wages. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate an employee for lost wages are IRC §415 compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in IRC §415 compensation.

E. Limitation Year

1. The limitation year:

a. shall be the calendar year;

b. is the period that is used to apply the limitations of IRC §415.

2. The limitation year may only be changed by amendment to DARS. Furthermore, if DARS is terminated effective as of a date other than the last day of DARS's limitation year, then DARS is treated as if DARS had been amended to change its limitation year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A), R.S. 11:1581(5)(b), and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2311 (November 2015).

§103. Actuarial Equivalent

A. Effective July 1, 2013 and continuing through June 30, 2015, as provided by R.S. 11:1588(A) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.5 percent per annum.

a. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 70 percent males and 30 percent females. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 95 percent males and 5 percent females for retirees and 5 percent males and 95 percent females for beneficiaries

b. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 70 percent males and 30 percent females.

B. Effective July 1, 2015 and continuing through June 30, 2016, as provided by R.S. 11:1588(A) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.25 percent per annum.

a. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 70 percent males and 30 percent females. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 95 percent males and 5 percent females for retirees and 5 percent males and 95 percent females for beneficiaries.

b. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 70 percent males and 30 percent females.

C. Effective July 1, 2016 and continuing so long as not amended by resolution of the board, as provided by R.S. 11:1588(A) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.00 percent per annum.

a. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy table with white collar adjustment with no setback for males and with 1 year setback for females and unisexed based on 80 percent males and 20 percent females. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables with white color adjustment with no setback for males and with a 1 year setback for females and unisexed based on 95 percent males and 5 percent females for retirees and 5 percent males and 95 percent females for beneficiaries.

b. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables set back 5 years for males and set back 3 years for females unisexed based on 80 percent males and 20 percent females.

D. After July 1, 2016, the interest and mortality rate assumptions shall be as adopted by resolution of the board. The board shall consult with its actuary with regard to the proper rates to use.

E. For purposes of comparing the benefits of the forms of distribution with the maximum limitation on benefits, the applicable mortality tables described in IRC §417(e)(3)(B) shall be used.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1658-1659 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2313 (November 2015), amended LR 43:877 (May 2017).

§105. Accumulated Contributions, Rollovers

A. Definitions. As provided in R.S. 11:1635(E), the following definitions are provided or revised.

2009 RMDs of a Participant or Beneficiary—amounts that the participant or beneficiary would have been required to receive as a required minimum distribution under IRC §401(a)(9) for the 2009 distribution calendar year.

Eligible Retirement Plan—shall include, in addition to the plans and accounts described in R.S. 11:1635(D)(3), the following.

a. Effective for distributions on or after January 1, 2007, eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiary with the special rules for surviving spouse beneficiaries.

b. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments of distributions were made, or a Roth IRA of such individual. Effective January 1, 2007, a Roth IRA is an eligible retirement plan with respect to distributions from this plan that do not consist of designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

Eligible Rollover Distribution—shall include, in addition to the events set forth in R.S. 11:1635(D)(4), the following.

a. Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in §408(a) or (b) of the *Internal Revenue Code*, or a Roth individual retirement account or annuity described in §408A of the *Internal Revenue Code* (a "Roth IRA") or to a qualified defined contribution plan described in §§401(a) or 403(a) of the *Internal Revenue Code* that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

b. Effective January 1, 2007, eligible rollover distributions shall include a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant, or Roth IRA established on behalf of the nonspouse designated beneficiary for the purpose of receiving the distribution. Effective January 1, 2007, early rollover distribution shall include after-tax contributions held in a plan qualified under §401(a) of the *Internal Revenue Code*. Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.

c. During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

B. Rollover of Returned Contributions. As provided in R.S. 11:1635(E):

1. distributee, eligible retirement plan and eligible rollover distribution shall be defined as provided in Subsection A of this Section;

2. an eligible rollover distribution shall be transferred in a direct rollover to an eligible retirement plan if so directed by the distributee. The board shall provide distributees with the opportunity to direct such direct rollover by written notice at least 30 and not longer than 180 days prior to the distribution;

3. this rollover right shall apply to any eligible rollover distribution, including distributions of accumulated contributions, DROP accounts and back-DROP accounts.

C. Eligible Retirement Plan

1. Effective for distributions on or after January 1, 2007:

a. eligible retirement plan shall include the individual retirement account or annuity in the name of the deceased participant for the benefit of a nonspouse beneficiary, who receives an eligible rollover distribution from the plan on account of the death of a participant, provided that the individual retirement account or annuity is treated as an inherited IRA and that the minimum distribution rules applicable in the event the IRA owner dies before the entire interest is distributed shall apply to the transferee IRA and the transferee IRA does not provide the beneficiaries with the special rules for surviving spouse beneficiaries;

b. a Roth IRA is an eligible retirement plan with respect to distributions from the fund that do not consist of designated Roth accounts, so long as the restrictions that apply to a transfer from a traditional IRA (non-Roth) to a Roth IRA are satisfied.

D. Eligible Rollover Distribution

1. If any portion of an eligible rollover distribution is attributable to payments or distributions from a designated Roth account, an eligible retirement plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual.

2. Effective January 1, 2003, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in IRC §408(a) or (b), or to a qualified defined contribution plan described in IRC §§401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

3. Effective January 1, 2007, eligible rollover distributions shall include:

a. a distribution to a nonspouse beneficiary on account of the participant's death, so long as any rollover distribution is transferred to an individual retirement account or annuity that is treated as an inherited account of the deceased participant;

b. after-tax contributions held in a plan qualified under IRC §401(a).

4. Effective January 1, 2007, distributions from the plan that do not consist of designated Roth accounts shall be eligible rollover distributions with respect to a Roth IRA and may be rolled over to a Roth IRA, subject to the restrictions that apply to a transfer from a traditional (non-Roth) IRA to a Roth IRA.

5. During 2009, 2009 RMDs shall be treated as eligible rollover distributions for purposes of making available the direct rollover of eligible rollover distributions that include such amount, but not for purposes of withholding federal income taxes on the amount when it is distributed.

E. Payment for Age Discrimination Service Credit

1. As provided in R.S. 11:1617(B), payment may be made directly by the member or may be made on the member's behalf in a single sum payment by:

a. an individual retirement account; or

b. an individual retirement annuity; or

c. a plan qualified under IRC §§401(a), 403(a), 403(b), or 457(g).

2. Source of Contribution. Amounts contributed under Paragraph 1 of this Subsection shall not consist of amounts for which additional recordkeeping is required, such as after tax or Roth accounts. The trustees shall have discretion whether to accept contributions in any particular form.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1617(B), and the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2313 (November 2015), amended LR 43:877 (May 2017).

§107. Repayment of Withdrawn Accumulated Contributions

A. Withdrawn Accumulated Contributions May be Repaid

1. Repayment Permitted

a. Member contributions that have been refunded to the member upon his termination of employment before qualifying for retirement benefits under the DARS may be repaid to DARS by the member upon his reemployment by a participating employer and his participation in and contributing to DARS for a minimum of six months, provided such repayment is made prior to any application by the member for retirement.

2. Amount of Repayment

a. Repayment of a refund shall include the amount refunded plus interest thereon. The trustees shall determine the interest rate applicable to each period during which the accumulated contributions have been refunded and ending with the date of repayment. Such interest shall be determined on a consistent basis and shall apply to all members. Installments shall not be permitted. If funds used for repayment originate from multiple sources, all funds due must be received by DARS within 45 days of each other. Service credit shall not be restored until full payment has been received.

3. Sources of Payment

a. The member shall be responsible for certifying and demonstrating the amount of any refund from a source for which taxes have been paid by the member. Amounts received in a rollover, whether a direct rollover or 60-day rollover will be presumed not to have been taxed; however, the trustees or their delegates may offer the member the opportunity to demonstrate that part or all of the rollover is of after-tax funds, subject to any administrative requirements that the trustees regard as reasonable to demonstrate proof of the after-tax status of the funds. DARS will maintain records of after-tax amounts held for the benefit of the member.

4. Distribution of Refund Amounts

a. Any distribution of amounts repaid by the member that includes after-tax payments shall include the allocable portion of the after-tax payment. Determination of the allocable portion of each payment shall be in accordance with federal income tax rules and the policies and procedures of the trustees.

B. Service Credited Upon Repayment

1. Service Credited

a. All creditable service forfeited upon refund shall be restored upon full repayment of the refund plus interest in accordance with Subsection A above. The accrual rate of such service shall be the applicable rate in place at the time the service was initially earned.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A) and R.S. 11:1617(B).

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 43:877 (May 2017).

Chapter 3. Creditable Service

§301. Benefits for Qualified Military Service

A. Death and Disability. As provided under R.S. 11:1614(F), the following shall apply.

1. In the case of a death or disability occurring on or after January 1, 2007, if a member dies or becomes disabled while performing qualified military service (as defined in IRC §414(u)), the member or the member's beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment on account of death.

a. Moreover, the plan will credit the member's qualified military service as service for vesting purposes, as though the member had resumed employment under USERRA immediately prior to the member's death.

B. Differential Wage Payments. If the member's employer makes differential wage payments during the member's qualified military service, then the member shall be credited with compensation for purposes of the system.

C. Qualified Military Service—any service in the uniformed services (as defined in chapter 43 of title 38, *United States Code*), by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A), R.S. 11:1614(F), and the provisions of the Administrative Procedure Act, R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2314 (November 2015).

Chapter 5. Limitation on Payment of Benefits

§501. Suspension of Benefits

A. As provided in R.S. 11:1631(E) and (F), if a member has commenced to receive distributions under R.S. 11:1632 or 1633, then benefits to such member shall be suspended upon his reemployment by a contributing employer to the system, and the suspension shall continue so long as he is still employed. If such member later terminates employment, he shall commence to receive minimum distributions again and shall be entitled to elect the method of receiving such distributions, with his required beginning date to be determined based on the date of his termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A) and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2315 (November 2015).

§503. Definitions

A. Definitions. For purposes of this Title, the following definitions apply.

Annual Benefit—a benefit that is payable annually in the form of a straight life annuity.

Defined Benefit Dollar Limitation—effective for limitation years ending after December 31, 2001, $160,000, automatically adjusted under IRC §415(d), effective January 1 of each year, as published in the *Internal Revenue Bulletin*, and payable in the form of a straight life annuity:

a. the new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year;

b. the automatic annual adjustment of the defined benefit dollar limitation under IRC §415(d) shall apply to participants who have had a separation from employment.

Required Beginning Date of a Member—April 1 of the calendar year following the year in which the plan member terminated employment with the employers that contribute to the system. Any required beginning date occurring in 2009 shall be extended for one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A) and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2315 (November 2015).

§505. Benefit Limitations

A. Maximum Permissible Benefit. As provided under R.S. 11:1632, the following provisions shall apply for limitation years beginning on or after July 1, 2007.

1. Annual Benefit—Maximum Permissible Benefit. The annual benefit, otherwise payable to a participant under the plan, at any time shall not exceed the maximum permissible benefit. If the benefit the participant would otherwise accrue in a limitation year would produce an annual benefit in excess of the maximum permissible benefit, then the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the maximum permissible benefit.

2. Adjustment if in Two Defined Benefit Plans. If the participant is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the employer or a predecessor employer, the sum of the participant's annual benefit from all such plans may not exceed the maximum permissible benefit. Where the participant's employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the maximum permissible benefit applicable at that age, the employer shall limit a participant's benefit in accordance with the terms of the plans.

3. Limits Grandfathered prior to July 1, 2007

a. The following sentence in Clause i of this Subparagraph applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to IRC §415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in U.S. Treasury regulations §1.415(a)-1(g)(4).

i. The application of the provisions of this Part shall not cause the maximum permissible benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007.

B. Annual Benefit Determination

1. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Part.

2. For a participant who has or will have distributions commencing at more than one annuity starting date, the annual benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Part as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates.

a. For this purpose, the determination of whether a new annuity starting date has occurred shall be made:

i. without regard to U.S. Treasury regulations §1.401(a)-20, Q and A-10(d); and

ii. with regard to U.S. Treasury regulations §1.415(b)1(b)(1)(iii)(B) and (C).

3. The determination of the annual benefit shall take into account Social Security supplements described in IRC §411(a)(9) and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant to U.S. Treasury regulations §1.411(d)-4, Q and A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

C. Actuarial Adjustment. No actuarial adjustment to the benefit shall be made for:

1. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the participant's benefit were paid in another form;

2. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or

3. the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to IRC §417(e)(3) and would otherwise satisfy the limitations of this Part, and the plan provides that the amount payable under the form of benefit in any limitation year shall not exceed the limits of this Part applicable at the annuity starting date, as increased in subsequent years pursuant to IRC §415(d).

a. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

D. Actuarial Equivalent—Straight Life Annuity

1. Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with Subparagraph a of this Paragraph.

a. The straight life annuity that is actuarially equivalent to the participant's form of benefit shall be determined under this Subparagraph if the form of the participant's benefit is either:

i. a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse); or

ii. an annuity that decreases during the life of the participant merely because of:

(a). the death of the survivor annuitant (but only if the reduction is not below 50 percent of the benefit payable before the death of the survivor annuitant); or

(b). the cessation or reduction of Social Security supplements or qualified disability payments (as defined in IRC §401(a)(11)).

2. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount:

a. the interest rate and mortality table (or other tabular factor) specified in the plan for adjusting benefits in the same form; and

b. 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

3. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

a. the annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; and

b. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in the plan for that annuity starting date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1588(A) and 11:1632(F).

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2315 (November 2015).

Chapter 7.Required Minimum Distributions

§701. Required Beginning Date

A. Definition

Required Beginning Date of a Participant who is a 5 Percent Owner of an Adopting Employer—the first day of April of the calendar year following the calendar year in which the participant attains age 70 1/2. The required beginning date for benefit distributions to a participant other than a 5 percent owner shall be the first day of April of the calendar year following the calendar year in which the later of the following occurs: the participant attains age 70 1/2, or the participant retires. Once distributions have begun to a 5 percent owner under this Section, they must continue to be distributed, even if the participant ceases to be a 5 percent owner in a subsequent year.

B. Annuity Distributions

1. Benefits due to a member who is eligible for retirement under R.S. 11:1632, 1633, or 1634 shall commence on or before the required beginning date.

2. Death before Date Distributions Begin. If the member dies before distribution of his or her interest begins, distribution of the member's interest in the applicable account(s) will be distributed or begin to be distributed, no later than as follows.

a. Member Survived by Designated Beneficiary. If the member dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the member's death is the quotient obtained by dividing the member's account balance by the remaining life expectancy of the member's designated beneficiary.

b. No Designated Beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's interest in the applicable account(s) will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

c. Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the member dies before the date distributions begin, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Paragraph C.6 of this Section, this Section will apply as if the surviving spouse were the member.

d. For purposes of this Section, any amount paid to a child of the member will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

e. For the purposes of this Section, distribution of a member's interest in the applicable account(s) is considered to begin on the member's required beginning date (or, if Subparagraph c of this Paragraph is applicable, the date distribution is required to begin to the surviving spouse pursuant to Subparagraph a of this Paragraph).

C. Applicable Accounts

1. This Subsection shall apply with respect to any account that is part of the system that is considered to be a defined contribution account within the system. This Subsection shall apply to the refund of accumulated contributions as provided in R.S. 11:1635 (hereinafter referred to as "applicable account").

2. The applicable account(s) of a member must be distributed or begin to be distributed no later than the member's required beginning date. The first distribution calendar year shall be the calendar year in which the member attains age 70 1/2 or has a severance from employment with the employer maintaining this system, if later. Distribution shall be made over a period not longer than that provided under this Subsection.

3. Death of Member before Distributions Begin. If the member dies before distributions begin, the member's applicable account(s) will be distributed, or begin to be distributed, no later than as follows.

a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 1/2, if later.

b. If the member's surviving spouse is not the member's sole designated beneficiary, then distributions to the designated beneficiary will be made or will begin by December 31 of the calendar year immediately following the calendar year in which the member died.

c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's applicable account will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse are required to begin, this Subsection (other than Subparagraph a of this Paragraph) will apply as if the surviving spouse were the member. For purposes of this Subsection, distributions are considered to begin on the member's required beginning date, or if applicable, on the date distributions are required to begin to the surviving spouse. The date distributions are considered to begin is the date distributions actually commence.

4. Forms of Distribution. Unless the member's interest is distributed in a single-sum on or before the required beginning date, as of the first distribution calendar year, distributions will be made in accordance with this Subsection.

5. Required Minimum Distribution for each Distribution Calendar Year. If the member's interest in the applicable account(s) is to be distributed in other than a single sum, the following minimum distribution rules shall apply on or after the required beginning date.

a. During the member's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

i. the quotient obtained by dividing the member's account balance by the distribution period in the uniform lifetime table set forth in 26 CFR §1.401(a)(9)-9, Q and A-2, using the member's age as of the member's birthday in the distribution calendar year; or

ii. if the member's sole designated beneficiary for the distribution calendar year is the member's spouse, the quotient obtained by dividing the member's account balance by the number in the joint and last survivor table set forth in 26 CFR §1.401(a)(9)-9, Q and A-3, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the distribution calendar year.

b. Required minimum distributions will be determined under this Section beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the member's date of death.

c. *Member's Benefit*—the account balance of the applicable account or accounts as of the last valuation date in the calendar year immediately preceding the distribution calendar year increased by the amount of any contributions allocated to the applicable account balance as of dates in the distribution calendar year with respect to the first distribution year, after the valuation date and decreased by distributions made in the distribution calendar year after the valuation date.

i. For purposes of Subparagraph c of this Paragraph, if any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been in the immediately preceding distribution calendar year.

6. Required Minimum Distributions after Member's Death. If the member dies after distribution of his or her applicable account(s) has begun, the remaining portion of such account(s) will continue to be distributed at least as rapidly as under the method of distribution being used prior to the member's death.

a. Member is Survived by Designated Beneficiary. If the member dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the member's death is the quotient obtained by dividing the member's account balance by the longer of the remaining life expectancy of the member or the remaining life expectancy of the member's designated beneficiary, determined as follows.

i. The member's remaining life expectancy is calculated using the age of the member in the year of death, reduced by one for each subsequent year.

ii. If the member's surviving spouse is the member's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the member's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

iii. If the member's surviving spouse is not the member's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the member's death, reduced by one for each subsequent year.

b. No Designated Beneficiary. If the member dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the member's death, the minimum amount that will be distributed for each distribution calendar year after the year of the member's death is the quotient obtained by dividing the member's account balance by the member's remaining life expectancy calculated using the age of the member in the year of death, reduced by one for each subsequent year.

D. Deferred Retirement Option Plan (DROP) and Back-Deferred Retirement Option Plan (Back-DROP)

1. Required Beginning Date

a. The DROP account and/or Back-DROP account of a member shall be distributed, or commence to be distributed, on or before the member's required beginning date.

2. Minimum Required Distribution (MRD)

a. Unless a greater amount is elected by the member for a calendar year, the amount to be distributed as the minimum required distribution shall be determined by annuitizing the DROP account and/or back-DROP account of the member over the period equal to the number of years beginning with the first distribution calendar year and continuing for the period equal to the number of whole years of the member's life expectancy measured from the first distribution calendar year as determined under the uniform lifetime table in 26 C.F.R. §1.401(a)(9)-9. The board shall have authority to designate the interest rate for purposes of calculating the periodic payments. Notwithstanding the foregoing, all payments shall be made from the DROP account or back-DROP account of the member, and no amount shall be paid that is not accrued for the member's benefit under such account.

3. Right to Accelerate Payments

a. The member shall have the right to accelerate payments and to receive a distribution of the entire DROP account or back-DROP account in a lump sum.

4. Rollover

a. If a distribution is made that includes the minimum required distribution for a calendar year, then that minimum required distribution may not be rolled over; however, any amount distributed in excess of the minimum required distribution for any calendar year shall be an eligible rollover distribution and may be rolled over into an eligible retirement plan.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1635, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2316 (November 2015), amended LR 43:878 (May 2017).

Chapter 9.Funding of Retirement System

§901. Employer Contributions

A. In accordance with R.S. 11:1658, the Board of Trustees directs that the direct employer contribution rate for January 1, 2017 through June 30, 2017 shall be 0 percent.

B. Any excess funds resulting from application of Subsection A of this Section shall be combined with any contribution surplus or offset by any contribution shortfall, and the resulting balance, if greater than zero, shall be accumulated in the funding deposit account pursuant to R.S. 11:1659.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1658-1659, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 43:878 (May 2017).

Title 58
RETIREMENT
Part XXIII. Survivor Benefit Board

Chapter 1. Law Enforcement Officers and Firemen's Survivor Benefit Board (Formerly LAC 37:I.Chapter 11)

§101. Survivors Benefits (Formerly LAC 37:I.1101.A-B)

A. Purpose:

1. to establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533(A), 40:1665, 40:1665.3, 40:1665.2(B), and 40:1665.1;

2. to govern the submission, evaluation and determination of claims submitted pursuant to R.S. 40:1665.3, 40:1665.2, 40:1665.1, 40:1665, 33:2011, and 33:2581.

B. Application

1. The rules will apply to all claims arising from R.S. 40:1665, 40:1665.2, and 40:1665.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:1417 (July 2017).

§103. Definitions (Formerly LAC 37:I.1101.C)

Board—the Law Enforcement Officers and Firemen's Survivor Benefit Review Board.

Child—as defined in R.S. 40:1665.3(C)(2).

Fireman—as defined in R.S. 40:1665(B).

Law Enforcement Officer—as defined in R.S. 40:1665.2(B).

Line of Duty—shall include:

1. for law enforcement, any activity performed in which a law enforcement officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of their official duties;

b. arising out of any activity while on or off duty, in their official enforcement capacity, involving the protection of life or property;

c. traveling to or from a public safety emergency or responding to a request for law enforcement assistance regarding the health, safety, or welfare of the public; or

d. traveling to or from their residence or their authorized work area while using a law enforcement vehicle provided by their employing agency;

2. for firemen, an activity performed in which a fireman suffers death as a result of:

a. an injury arising out of and in the course of the performance of their official duties;

b. an injury arising out of an activity, while on or off duty, in their capacity as a firemen, in the protection of life and property;

c. a heart attack or stroke as provided for in R.S. 40:1665.1;

d. a disabling cancer, following 10 or more years of service, as provided for in R.S. 33:2011; or

e. a disease or infirmity of the heart or lungs, which develops during employment in the classified fire service, as provided for in R.S. 33:2581.

Qualifying Claim—those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

Spouse—as defined in R.S. 40:1665.3(C)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:1417 (July 2017).

§105. Board Membership and Domicile (Formerly LAC 37:I.1101.D)

A. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations, etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be the attorney general, or their designee.

B. The board will be comprised of those individuals or their designees as stated in R.S. 40:1665.3

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:1417 (July 2017).

§107. Claims Requests
(Formerly LAC 37:I.1101.E)

A. All claims shall be submitted to the chairman of Law Enforcement Officers and Firemen's Survivor Benefit Review Board through the Department of Justice, Attorney General.

B. All claim requests must include the following documentation:

1. notarized affidavit for decedent's date of employment, rank, duty assignment, routine work schedule, work responsibilities, years of classified service if applicable, and brief statement outlining injuries;

2. copy of decedent's commission as police officer/fireman;

3. notarized affidavits from any witnesses to incident;

4. certified copy of investigative report, or uncertified copy accompanied by notarized affidavit of reporting investigative officer, which identifies copy of report as accurate reproduction of original report;

5. certified copy of decedent's death certificate and autopsy protocol report;

6. notarized affidavit from decedent's surviving spouse stating their full name, address, date of marriage, and that they were not legally separated or divorced at time of death. Also, a certified copy of marriage license;

7. list of names and birth dates of each minor child born to or adopted by decedent, certified copies of birth certificates;

8. certified copy of letters of tutorship;

9. notarized affidavit of tutor or legal representative of surviving child stating child is unmarried and under the age of 18, or alternately, is unmarried, under the age of 23, and a student;

10. notarized affidavit of caretaker of surviving child which states the major child is physically and/or mentally handicapped, totally and permanently disabled, and solely dependent upon decedent for support. Also, copy of the major child's medical and/or psychological records; and

11. if decedent was not survived by a spouse, child or children, a notarized copy of the department's form designating decedent's chosen beneficiary. If decedent is not survived by a spouse, child or children, and no beneficiary designation form has been completed, any approved qualifying claim shall be paid to the decedent's estate.

C. Additional information required for some firemen:

1. for claims involving disabling cancer under R.S. 33:2011, a certified copy of medical diagnosis of disabling cancer originating in the bladder, brain, colon, liver, pancreas, skin, kidney, or gastrointestinal tract, and leukemia, lymphoma, and multiple myeloma;

2. for claims involving diseases or infirmity of the heart or lungs under R.S. 33:2581, a certified copy of a medical diagnosis of disease of the heart or lung during period of classified fire service;

3. for claims involving heart attack or stroke under R.S. 40:1665.1, notarized affidavit providing that heart attack or stroke occurred while on duty while fireman was engaged in an activity which was stressful or physical, or participating in a training exercise that involved stressful or strenuous physical activity, or no later than 24 hours from engaging or participating in such activities, while on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:1418 (July 2017).

§109. Procedures for Hearings
(Formerly LAC 37:I.1101.F)

A. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

B. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

C. At the hearing date described, the board shall officially receive and act upon all claims received.

D. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

E. The board shall have the following options with regards to the claim action:

1. approval of the qualifying claim;

2. denial of the claim;

3. deferral pending receipt of additional data; or

4. conditional approval of qualifying claim, pending receipt of any outstanding documentation.

F. The board shall inform the claimant, in writing, of its determination.

G If approved or upon receipt of outstanding documentation following conditional approval, the board chairman shall certify to the commissioner of administration and request payment in accordance with R.S. 39:1533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:1418 (July 2017).

§111. Appeals
(Formerly LAC 37:I.1101.G)

A. Claimant may appeal within 60 days of being advised of the board's decision.

B. This appeal shall be filed in the Nineteenth Judicial District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivor Benefit Review Board, LR 43:1418 (July 2017).

Title 58

RETIREMENT

Part XXV. Municipal Employees' Retirement System

Chapter 1. General Provisions

§101. Definitions

A. Use of the masculine includes the feminine and vice versa. Use of the singular includes the plural and vice versa.

B. The following definitions apply unless the usage clearly indicates another meaning.

Active Member—a member of the Municipal Employees' Retirement System (MERS) who is employed by a participating employer and actively contributing to MERS or who is participating in the Deferred Retirement Option Plan (DROP).

Active Member Trustee—a trustee holding a seat elected by active members of MERS or appointed to such a seat in accordance with R.S. 11:1821G(4).

Board of Trustees or *Board*—the board of trustees of the Municipal Employees' Retirement System.

Director—the executive director of the Municipal Employees' Retirement System.

DROP—Deferred Retirement Option Plan.

Inactive Member—a member who is not actively contributing to MERS but is not retired and has left their contributions in the system.

MERS—the Municipal Employees' Retirement System of Louisiana.

Retired Member Trustee—a trustee holding a seat elected by retired members of MERS or appointed to such a seat in accordance with R.S. 11:1821G(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2366 (September 2022).

§105. Payment of Benefits

A. All new retirees and beneficiaries are required to have their monthly benefits electronically deposited into an account at a financial institution.

B. To facilitate electronic payment of benefits, a retiree/beneficiary must provide a copy of their Social Security card, name, complete address, routing number of a financial institution, account number, and indication of whether the account is a checking account or a savings account.

C. A voided check, for a checking account, or deposit slip, for a savings account must be provided by the payee.

D. Direct deposit payments are issued on the first business day of the month for which they are due. Paper checks, for retirees/beneficiaries not subject to the direct deposit rule, are mailed on the last business day of the month prior to the month in which they are due and dated the first of the month for which they are due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

§108. Rollover of Refunds

A. Qualified rollovers of accumulated employee contributions require a certification from the receiving financial institution that the institution is qualified to receive the rollover.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

§110. Plan Year

A. The plan year for MERS shall be July 1-June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

Chapter 2. Elections

§201. Active Eligible Candidates

A. An active member candidate for a position on the board of trustees must be an active member of the system with at least six years of creditable service.

B. A participant in the deferred retirement option plan (DROP) is eligible to run as an active member candidate.

C. A disability retiree who has returned to work under either R.S. 11:224 or R.S. 11:225 is eligible to run as an active member candidate.

D. An active member candidate for an elected official position must be holding an office elected through the state election code.

E. An active member candidate for a non-elected position may not be an elected official.

F. To satisfy the requirement that no more than two elected trustees from the same employer may serve on the board at the same time, the trustees first elected have preference for the seat. If trustees are elected at the same election, the person elected with the most votes has preference for the seat.

G. Any person convicted of a felony offense shall be prohibited from being a candidate for a period of five years after the latter of their conviction or the end of their imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

§203. Retiree Eligible Candidates

A. A retiree member candidate for a position on the board of trustees must be a retired member of MERS as of the date that the nomination period for the seat closes.

B. Any person convicted of a felony offense shall be prohibited from being a candidate for a period of five years after the latter of their conviction or the end of their imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

§205. General Schedule of Elections

A. Elections shall be held in years in which the term of an elected member of the board expires.

B. In the year 2022, an election shall be held for an active member trustee who is an elected official.

C. In the year 2023, an election shall be held for an active member trustee who is an elected official.

D. In the year 2024, an election shall be held for an active member trustee who is not an elected official.

E. In the year 2025, an election shall be held for an active member trustee who is not an elected official.

F. In the year 2026, an election shall be held for an active member trustee who is an elected official.

G. In the year 2027, an election shall be held for a retired member trustee.

H. Elections shall be held during the sixth year after the years listed above for the described trustee seats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

§207. Specific Schedule of Elections

A. The schedule for elections shall be as follows.

1. nominations open on the first day of May;

2. nominations close by 4 p.m. of the fourth Wednesday of May;

3. ballots will be mailed by the first Friday in July;

4. ballots are due no later than 4 p.m. of the fourth Friday in July. MERS may allow ballots to be cast by mail, telephone, and/or through an online system;

5. ballots will be tabulated by the fourth working day following the deadline for receipt of the ballots;

6. if no candidate receives a majority of the votes cast, a run-off election is required;

7. if a run-off is necessary, the candidates' names will appear alphabetically on the ballot;

8. run-off ballots will be mailed no later than the first Friday in August;

9. run-off ballots are due no later than the fourth Friday in August;

10. ballots will be counted by the fourth working day following the deadline for receipt of ballots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2367 (September 2022).

§210. Nomination Process

A. Candidates for the retiree seat must be nominated by at least 10 active and/or retired members of MERS.

B. Candidates for the elected and non-elected active seats must be nominated by at least 25 actively contributing members of MERS.

C. The nominating petition must contain the signature, printed name, and last four digits of the Social Security number of each person nominating the candidate.

D. Candidates must submit a candidate information form containing their education, positions held, and reasons they are seeking the position.

E. Staff of MERS must verify that candidates and enough members signing the nominating petition meet the criteria set forth in statute and these rules.

F. In the event that an election must be held for a partial term, in addition to a seat for a full term, the candidate must specify whether they are seeking the partial or full term.

G. If a candidate does not have opposition, that candidate may take office at the expiration of the term of the incumbent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

§215. Election Process

A. Approximately three months before the expiration of a trustee's term, the director will issue a notice of the upcoming vacancy on the MERS' website and send a notice to participating employers.

B. A nominating petition packet will be made available on the MERS' website and will be distributed via electronic mail or through the United States Post Office upon request.

C. The names of candidates will appear in alphabetical order on the ballot. If an incumbent trustee is a candidate that will be noted on the ballot.

D. The director will cause ballots to be mailed to all eligible voters. The statements provided by each candidate with their nominating petition shall be included in the ballot mailout.

E. The number of votes which may be cast depends on the number of vacancies for which a trustee must be elected.

F. Only votes cast by the deadline will be counted.

G. Votes will be tabulated by a third party, such as a certified public accountant or an election vendor, selected by the director. Candidates may attend and observe the ballot tabulating, at their own expense.

H. A majority of votes is required for a candidate to win a contested election. If a single candidate does not attain a majority of votes, a runoff will be conducted in the same fashion as the original election with the top two vote recipients competing.

I. Ties affecting elected positions shall be decided by a drawing conducted by the director in the presence of at least two witnesses. The candidates, or a representative of the candidates, may attend.

J. Election results shall be certified by the board of trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

§220. Emergency Situations

A. In the event an act of God or other circumstances beyond the control of the board prevents compliance with timelines set forth in these rules, the director and the board shall fulfill the responsibilities set out in these rules as soon as practicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

Chapter 3. Employer Agreements

§301. Employer Agreements

A. A sample agreement for coverage shall be posted on the MERS website.

B. Employers are not required to use the sample agreement so long as any agreement for coverage submitted to the board of trustees for approval contains each of the elements specified in R.S. 11:1733.

C. An employer must submit a resolution of its governing authority agreeing to the application for coverage before it will be considered by the board of trustees.

D. The board of trustees may require that the actuarial study required with an agreement for coverage be conducted by the actuary retained by the system, at the expense of the applying employer.

E. The board of trustees must approve an agreement for coverage by a majority vote at a public meeting before coverage is extended.

F. Amendments to an employer agreement require the same process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1733.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

Chapter 4. Community Property

§401. Spousal Rights

A. Because Louisiana is a community property state, a spouse has an interest in the retirement benefits of a MERS member.

B. A divorced member of MERS should provide a certified copy of a judgment of divorce and/or community property settlement document indicating that their ex-spouse relinquishes their interest in the member's benefit paid by MERS. Alternatively, the member should provide a certified copy of a Domestic Relations Order (DRO) signed by a judge and indicating how their retirement benefit must be shared with their former spouse.

C. A married member of MERS must obtain consent of their spouse to leave a retirement benefit of less than fifty percent for that spouse.

D. Absent a court order directing MERS to split a member's benefit with an ex-spouse, MERS will make payments to the member only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:291 and 1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2368 (September 2022).

Chapter 5. Refunds

§501. Method of Payment

A. Refunds of accumulated contributions shall be issued as an electronic payment to the member or as a rollover to a qualified financial institution.

B. Refunds may be paid to a checking account, savings account, or debit card, provided the account is in the name of the member receiving the refund.

C. Refunds are issued after all contributions have been received from the employer. In exceptional circumstances, as set out in a written policy, the director may authorize a partial refund.

D. MERS shall withhold federal taxes on refunds as required by the Internal Revenue Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

§503. Documentation Required

A. A refund to a member's checking account requires a pre-printed voided check or other documentation from the financial institution of the validity of the account.

B. A refund to a member's savings account requires a pre-printed deposit slip or other documentation from the financial institution of the validity of the account.

C. A refund to a debit card requires a signed direct deposit form from the financial institution.

D. A rollover of a refund requires a qualified financial institution to complete a form to acknowledge the status of the account and the ability to accept the funds.

E. A member must provide a copy of their Social Security card and a government issued photo identification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

§505. Vested Employees

A. A member who has earned enough service credit to qualify for monthly retirement benefits at their regular retirement age must sign a notarized statement forfeiting their monthly benefits to receive a refund.

B. If the member is married, their spouse must also sign the notarized statement.

C. The notarized statement to be signed by a vested member and legal spouse must state the estimated monthly benefit to which the member is entitled to receive for their lifetime upon reaching retirement age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

Chapter 6. Reemployed Retirees

§601. Eligibility

A. Members who retired with an early retirement or as a disability retiree are not eligible for reemployment with a participating MERS employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

§603. Waiting Period

A. A retiree of MERS wishing to return to work with a participating employer in MERS, whether part-time or full-time, shall wait one month from the effective date of their retirement to begin reemployment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

§605. Earnings Limit for Part-Time Reemployed Retirees

A. A member returning to work as a part-time employee may request a written earnings limit statement from MERS.

B. Monthly earnings of part-time reemployed retirees must be reported to MERS by the participating MERS employer by which they are employed.

C. It is the responsibility of the reemployed retiree to stay within the statutory earnings limit.

D. The member's monthly retirement benefit may be offset to recoup overearnings as a reemployed retiree.

E. If overearnings by a rehired retiree cannot be recouped through benefit payments, a payment plan subject to board approval shall be established with a promissory note required from the retiree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

Chapter 7. Conversion of Leave

§701. Eligibility

A. A participating employer may irrevocably elect to have its employees convert unused and unpaid annual and sick leave to retirement credit. The employer should submit a resolution to MERS indicating its acceptance of this option.

B. Only leave that is unused and unpaid by the employer at the time of the member's retirement may be converted to retirement credit.

C. Converted leave is not allowed for calculation of DROP account payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1755.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2369 (September 2022).

§705. Reporting

A. Within 30 days of a member's retirement, the participating employer which has elected to convert unused leave to retirement credit shall submit a conversion of leave form certifying the member's unused and unpaid leave.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1755.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

§710. Payment

A. Upon receipt of the conversion of leave form from an employer, MERS will send an invoice to the employer for the actuarial cost of the leave conversion.

B. The participating employer shall pay to MERS the actuarial cost of the member's unused leave within 30 days of the date of the member's retirement.

C. The employer must make full payment of the actuarial value of the member's unused leave before it is converted to retirement credit.

D. The member's benefit will be recalculated by MERS, to include the value of their converted leave, upon receipt of payment from the employer. Future benefit payments to the member will then include the value of the leave and a one-time retroactive payment to the date of their retirement for leave not previously compensated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1755.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

Chapter 8. Disability Retirement

§801. Application Process

A. Disability applications should be submitted before the member exhausts all leave or terminates employment.

B. Disability applications will be processed upon receipt of the following:

1. disability application by the member;

2. disability report by supervisor;

3. notification of income from other sources from the member;

4. member statement of disabling condition;

5. copies of all medical records pertaining to the disability;

6. authorization to request income information from the member;

7. salary evaluation form;

8. authorization for direct deposit;

9. copy of member's birth certificate and Social Security card;

10. copy of beneficiary's birth certificate and Social Security card, if applicable;

11. spousal consent form if legally married and maximum option is chosen;

12. copy of certificate of elected service if the member is an elected official in Tier 1;

13. copy of death certificate of spouse if member's spouse is deceased; and

14. certified copy of divorce decree if member is divorced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

Chapter 9. Insurance Premium Deductions

§901. Collection of Insurance Premiums

A. Health and life insurance premiums may be deducted by MERS from benefit payments issued to retirees and beneficiaries.

B. The premiums collected by MERS will then be transmitted to the participating employer which is responsible for paying the premium to the insurer.

C. Written authorization from participating employers to withhold premiums from their retirees' benefits and transmit those premiums to the employer must be made to MERS.

D. The member or beneficiary must provide written authorization to MERS to initiate the premium deduction and to make any changes to the deduction, other than routine rate changes.

E. Deductions will cease on the first of the month following the payee's death or upon the first of the month following notice of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

Chapter 10. Deferred Retirement Option Plan (DROP)

§1001. Application Process

A. An application for DROP may be made when a member is eligible for retirement.

B. The DROP application shall include:

1. a form submitted by the member's employer providing data on the member's salary for the highest 60 consecutive or joined months of earnings;

2. a written acknowledgement by the member of the number of months in which they will participate in DROP;

3. a copy of the member's birth certificate and Social Security card;

4. a copy of the beneficiary's birth certificate and Social Security card;

5. a designation of a beneficiary to receive the DROP fund balance if the member dies while participating in DROP;

6. a spousal consent form as to the retirement benefit if the member is legally married and not selecting a benefit which provides at least 50 percent to the spouse;

7. a spousal consent form as to the DROP funds if the member is legally married and not leaving at least 50 percent of their DROP fund balance to their spouse;

8. a copy of the spouse's death certificate if the member is widowed;

9. a certified copy of the divorce judgment if the member is divorced; and

10. for elected officials, a certificate of elected service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2370 (September 2022).

§1003. Ineligible for DROP

A. A member who has retired is not eligible to enter DROP if they become reemployed.

B. A member who is approved for disability retirement is not eligible for DROP.

C. A member who retires with an actuarially reduced retirement is not eligible for DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

§1005. Third Party Provider

A. MERS shall engage a third-party provider, selected by the board of trustees, to administer the DROP accounts of members.

B. Upon a member's completion of the DROP participation period, MERS shall transfer their DROP funds to the provider on the first business day of the month following the member's completion of the DROP participation period.

C. In situations where a member terminates employment and DROP prior to the selected participation period, DROP funds shall be transferred to the third- party provider on the first business day of the month following notification to MERS of the member's termination.

D. The third-party provider shall provide multiple investment options to participants, including fixed and variable investment options. Participation may result in the loss or gain of principal or earnings based on market performance.

E. The third-party provider shall not process withdrawal requests made by the member until MERS notifies the provider that the member has terminated employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

Chapter 11. Fees

§1101. Adoption of Fees

A. The board of trustees may adopt fees for various services provided to members through the retirement system.

B. The board of trustees should recoup the amount of fees charged by the system's actuary for member calculations. At the discretion of the director, members may not be required to pay the full amount of fees of the actuary.

C. Fees may only be imposed upon adoption by the board of trustees at a public meeting with opportunity for public comment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

Chapter 12. Military Service Purchases

§1201. Service Credit

A. This section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S. C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S. C. 4301 et seq.) as well as rules and

regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

Chapter 13. Renunciation of Benefits

§1301. Terms and Conditions to Renounce a Benefit

A. Any person eligible to receive, or receiving a benefit from MERS may renounce such benefit under the following terms and conditions:

1. the renunciation shall be unconditional and irrevocable. Once a benefit is renounced, MERS shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit;

2. a base benefit may be renounced in whole or in part. An adjustment to a base benefit (cost-of-living adjustment, adjustment for inflation, or one-time supplemental payment) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. if more than one person is entitled to receive a particular survivor benefit, each person entitled to a portion of the benefit may renounce his entitlement. The person or persons who continue to have an entitlement in that benefit shall receive the benefit to which they are entitled without consideration of the person who becomes ineligible through renunciation. Any adjustment shall be prospective only.

4. if the party making the renunciation is married, the spouse must join in the renunciation.

5. if the person making the renunciation is subject to an executed and effective community property settlement, only that portion of the benefit due the person making the renunciation may be renounced.

6. if the person making the renunciation is legally separated or divorced, but is not subject to an executed and effective community property settlement, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. if the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivors' beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. if a benefit is renounced by a member prior to receipt by the member of a sum equal to his or her accumulated contributions, the balance of the accumulated contributions will be paid to the member.

9. a renunciation must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by MERS.

10. a person revoking or participating in renunciation of a benefit must hold MERS harmless from such action.

11. a renunciation may not be used to terminate active participation in MERS.

12. amounts credited to a DROP account cannot be renounced.

13. a benefit or portion of a benefit that has been renounced may be used to recoup benefits or refunds of accumulated contributions paid by administrative error or mistake.

B. MERS makes no representation with respect to the effect of a renunciation on a person's eligibility for receipt of any state or federal benefits, or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs, or eligibility for or receipt of such benefits, is an issue for which the person making the renunciation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2371 (September 2022).

Chapter 14. Collection of Employer Contributions

§1401. Due Dates

A. Contribution payroll files and payment of employee and employer contributions are required by the tenth of each month, covering the preceding month.

B. Employers may pay contributions through electronic means or with a check.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.
HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2372 (September 2022).

§1403. Late Contributions

A. Interest may be charged for payments submitted after the tenth of the month.

B. Interest is calculated based on the system's actuarial valuation rate.

C. Payments more than 60 days late shall be reported to the board of trustees.

D. The board of trustees may certify delinquent amounts and request that the state treasurer deduct the certified amount from monies payable to the delinquent employer by any department or agency of the state.

E. The board of trustees may authorize the director to retain counsel to file suit for collection of certified delinquent amounts in a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1823.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2372 (September 2022).

Chapter 15. Money Manager Obligations

§1501. Reporting by Money Managers

A. Money managers shall report to MERS investments made with system funds in any company having facilities, employees, or both located in a prohibited nation as defined by the legislature.

B. Such reports shall be submitted by January 30 and July 30 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:312.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Municipal Employees' Retirement System, LR 48:2372 (September 2022).