

# Rules and Regulations of the Douglas County School District 0001 Board of Education on the Operation and Management of the Omaha School Employees Retirement System

Adopted July 12, 2021

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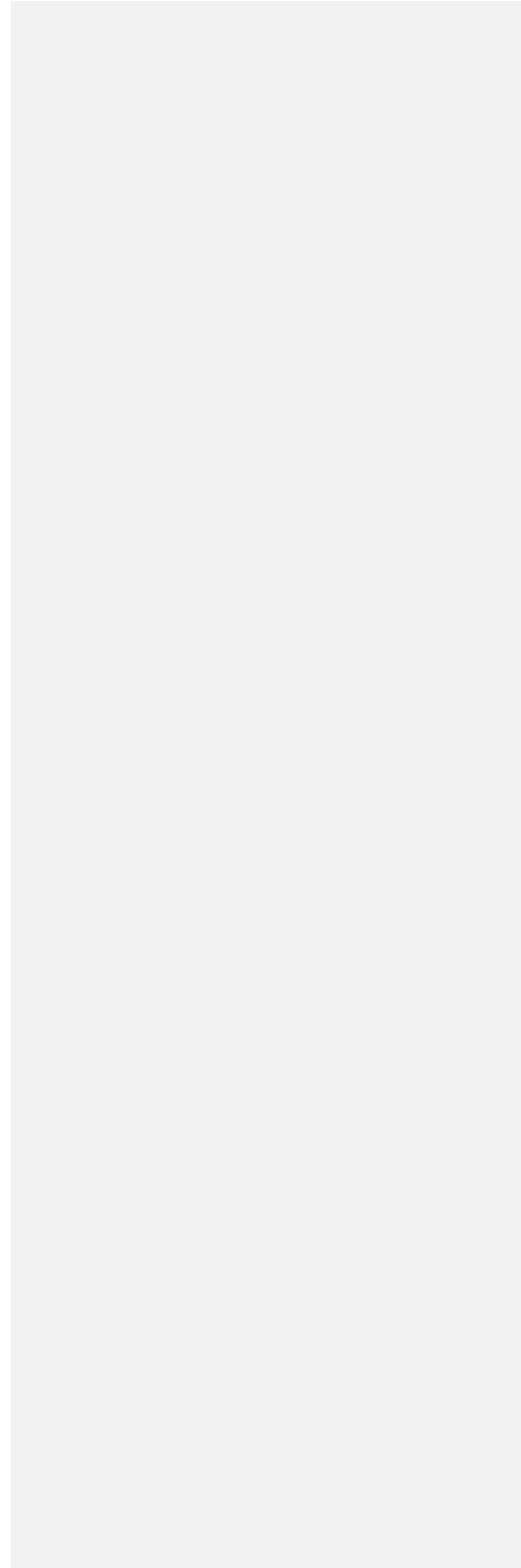


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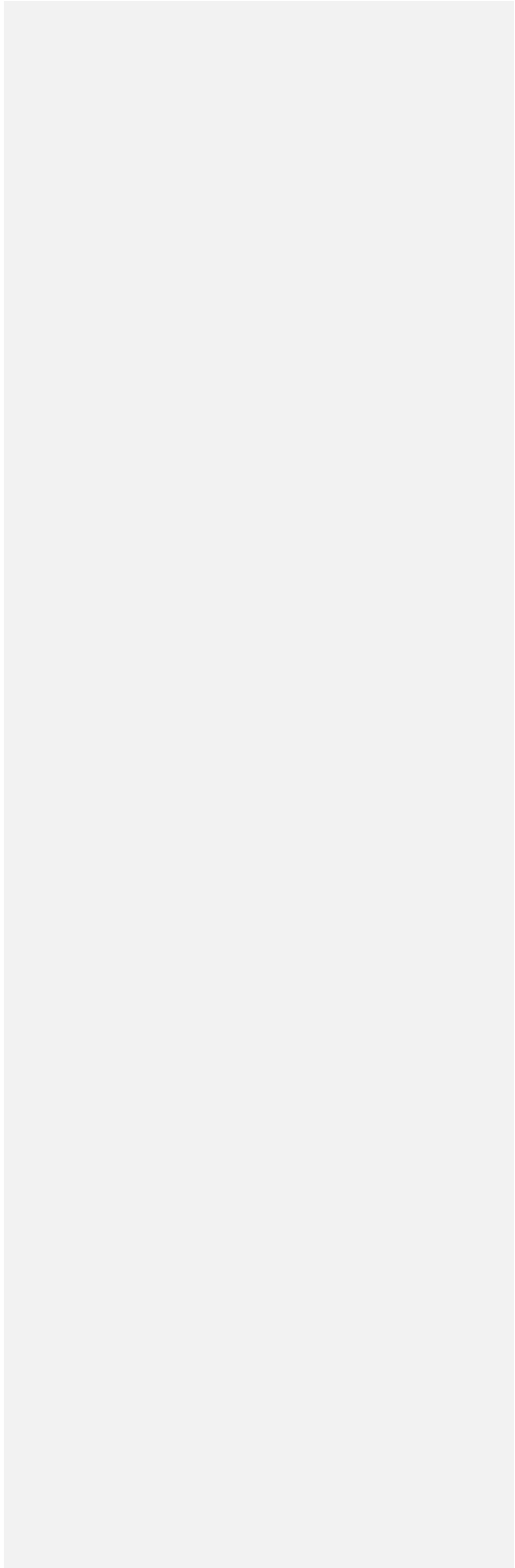
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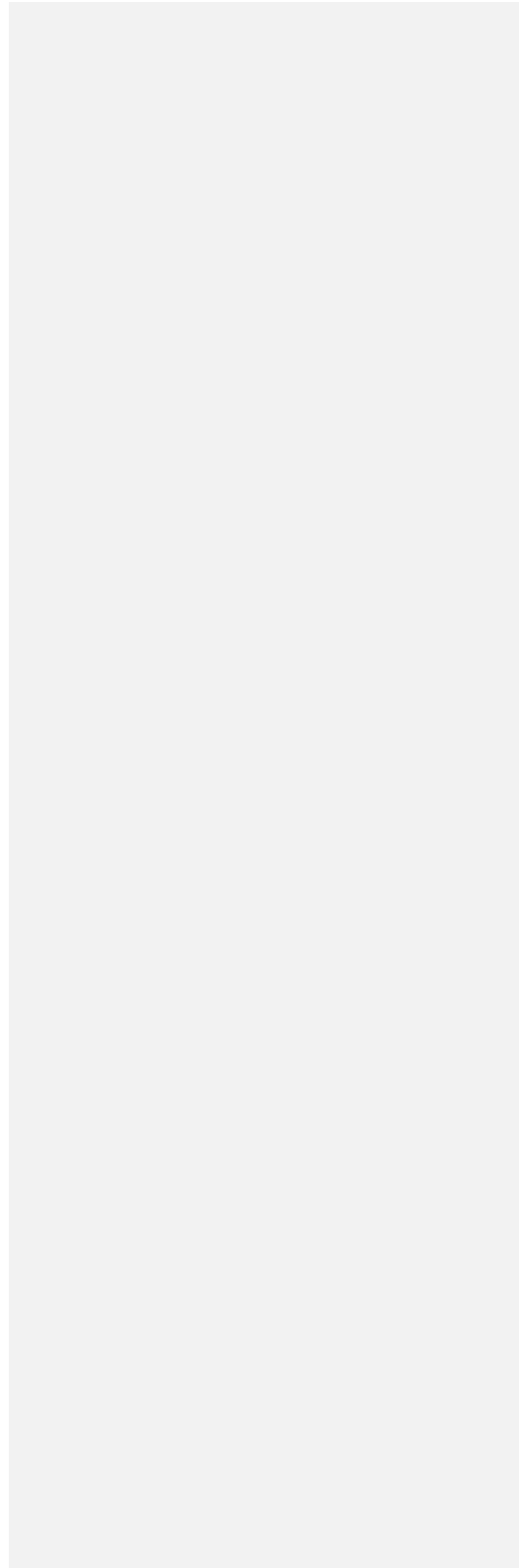


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## **CHAPTER 1 – OMAHA SCHOOL EMPLOYEES' RETIREMENT SYSTEM MANAGEMENT**

### **001 Scope of the Rule**

This rule provides for the general management of the Omaha School Employees' Retirement System (OSERS) in its day-to-day operations.

### **002 General Authority**

The general authority for the management of OSERS shall rest with the Board of Education of Douglas County School District 0001 (Board of Education) unless otherwise expressly delegated to the OSERS Transition Trustees (Transition Trustees) by Nebraska statute, by these Rules and Regulations, or by other action of the Board of Education.

### **003 Transition Trustees**

003.01 Transition Trustees shall be appointed by the Board of Education.

003.02 Transition Trustees shall consist of the Superintendent or his or her designee to serve as a voting, ex officio member, two members of OSERS, one of whom shall be a teacher, two members of the Board of Education, and two members who are business persons qualified in financial affairs and who are not members of OSERS.

003.03 Except for the initial appointments made June 7, 2021 and effective July 1, 2021, the term of a Transition Trustee shall be one fiscal year except the terms of the two Transition Trustees who are not members of the Board of Education or OSERS shall each be three fiscal years or until September 1, 2024, whichever is later.

003.04 A Transition Trustee shall serve until a successor qualifies, except a Transition Trustee who is a member of the Board of Education shall be disqualified as a Transition Trustee immediately upon ceasing to be a member of the Board of Education.

003.05 No vacancy on the Transition Trustees shall impair the power of the remaining Transition Trustees to fulfill their statutory duties pending the filling of such vacancy.

003.06 The Board of Education shall fill any vacancy in the position of Transition Trustee.

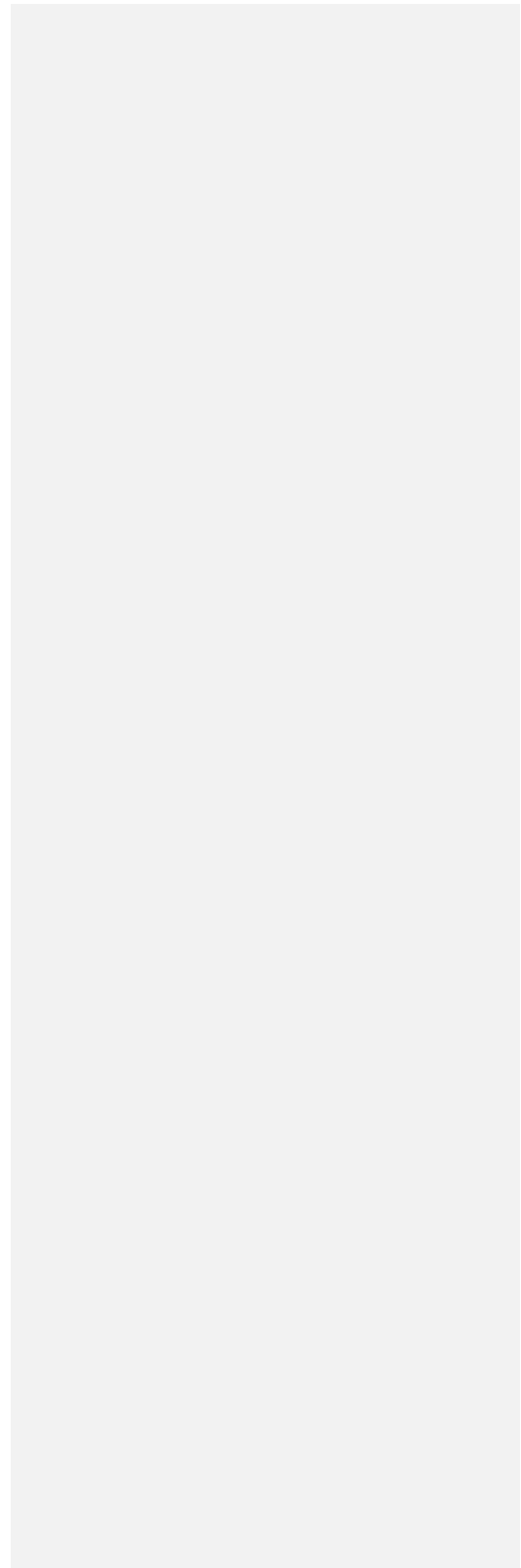
003.07 Transition Trustees shall serve without compensation, but shall be reimbursed from the funds of OSERS for expenses that they may incur through

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service as a Transition Trustee as provided in NEB. REV. STAT. §§ 81-1174 to 81-1177.

#### **004 Meetings of the Transition Trustees**

004.01 The Transition Trustees shall meet annually and at such other times as may be requested by the Chairperson, Vice-Chairperson, or three Transition Trustees.

004.02 Except when it is necessary to hold an emergency meeting without reasonable advance public notice, notice of the time and place of Transition Trustees meetings shall be given by publication in the Daily Record and the OSERS website at least five days in advance of each meeting. The Administrator (as appointed in Section 007 below) shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting, including emergency meetings, and the subjects to be discussed at that meeting.

004.03 Every meeting of the Transition Trustees shall be open to the public and shall be conducted in accordance with the open meetings provisions set forth in NEB. REV. STAT. §§ 84-1408 through 84-1414, et seq.

004.04 A quorum of the Transition Trustees shall be required for the Transition Trustees to hold a meeting and to conduct business. Attendance at any meeting by four members of the Transition Trustees shall constitute a quorum.

004.05 All motions before the Transition Trustees shall require the affirmative vote of a majority of voting members present at the meeting to pass. All votes shall be taken by roll call.

#### **005 Officers**

005.01 The Transition Trustees shall elect a Chairperson, a Vice-Chairperson, and a Secretary at the Transition Trustees' July 2021 meeting following adoption of these Rules and Regulation and again annually in each meeting of the Transition Trustees held in July thereafter. Any duty imposed upon the Chairperson by these rules and regulations may be performed by the Vice-Chairperson in the absence of the Chairperson. In the absence of both the Chairperson and the Vice-Chairperson, the Secretary shall have the authority to call the meeting to order and conduct an election for a Chairperson Pro Tem.

005.02 The Transition Trustees Chairperson and Secretary, in cooperation with the Administrator (as appointed in Section 007 below), shall be responsible for preparing the agenda for each meeting, publishing notice of the meeting, and

preparing the minutes of the meeting. A preliminary agenda for all regular Transition Trustees meetings shall be distributed to the Transition Trustees at least seven days in advance of the meeting. The final agenda for each regular meeting

shall be available for distribution and posted on the OSERS website with all relevant materials not less than 24 hours before the meeting.

#### **006 Subcommittees**

006.01 The following shall be standing subcommittees of the Transition Trustees:

- 006.01(a) Regulation and Policy Review Committee;
- 006.01(b) Audit Committee.

006.02 The Chairperson may organize additional ad hoc subcommittees as necessary.

006.03 Subcommittees shall be composed of not more than three Transition Trustees members. The Chairperson shall appoint Transition Trustees members to the various subcommittees and shall appoint a chairperson of each subcommittee. Subcommittees shall only serve as working subcommittees and may not take formal action on behalf of the Transition Trustees. All subcommittee proposals, findings and recommendations must come before the Transition Trustees for formal action to be binding upon the Transition Trustees.

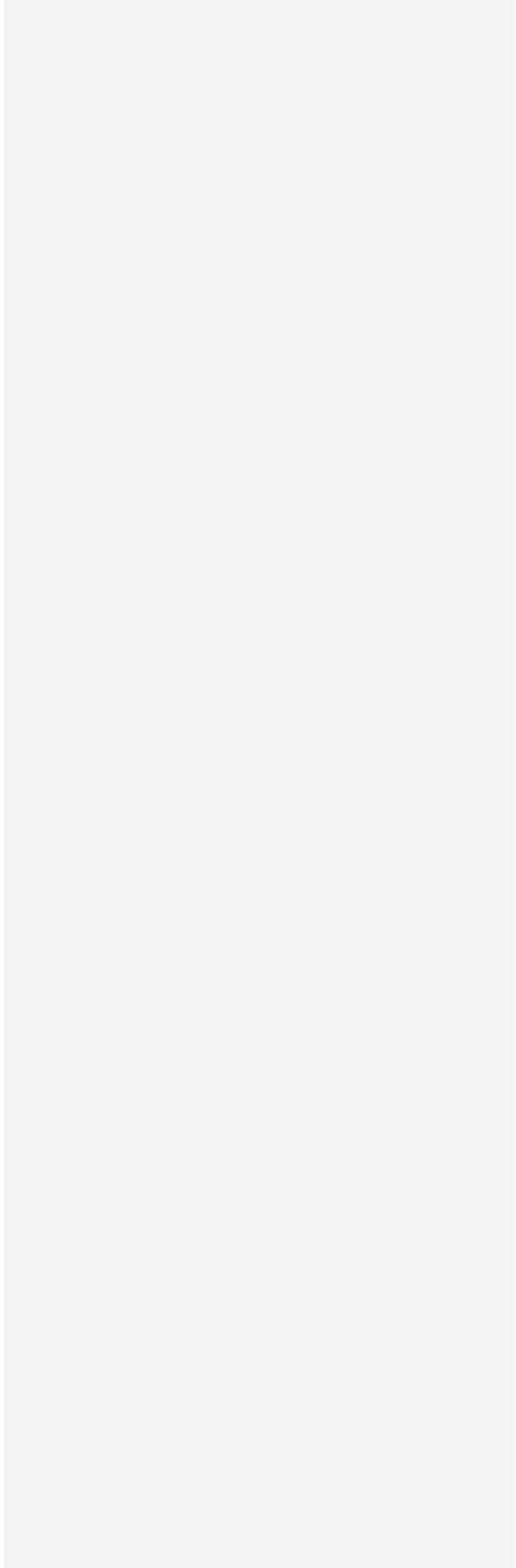
#### **007 Role of the Administrator**

007.01 The Board of Education shall appoint an Administrator to administer OSERS under the direction of the Board of Education supervised by the Board of Education Secretary. The Board of Education shall conduct a performance evaluation of the Administrator at least annually.

007.02 Except as expressly provided by statute or regulation, the Board of Education delegates to the Administrator, under the supervision of the Board of Education Secretary, responsibility for all day to day operations and decisions. All actions and decisions of the Administrator shall be subject to review by the Board of Education Secretary and, if necessary, the Board of Education. The Administrator shall:

007.02(a) serve as chief administrative officer of OSERS, and is responsible for the overall planning, organization, development, supervision, directing, and coordination of the on-going operations of OSERS.

007.02(b) confer with the Board of Education when requested, the Secretary of the Board of Education, member groups, the Transition Trustees, the attorney, the auditors, and the consulting actuary for the Board of Education.





007.02 (c) recommend rules and regulations to the Secretary of the Board of Education for possible presentation to the Board of Education, relating to the administration, interpretation, and construction of the retirement laws;

007.02(d) ensure compliance with Federal and State laws in the management and operation of OSERS;

007.02(e) work with the Chairperson and Secretary of the Transition Trustees to establish the agenda and matters for consideration by the Transition Trustees, and oversee the preparation and maintenance of the minutes of the meetings of the Transition Trustees;

007.02(f) prepare recommendations and justifications to the Secretary of the Board of Education, for possible presentation to the Board of Education, for changes in procedures, budget requests, personnel, and office activities;

007.02(g) prepare and conduct of research required in support of the Board of Education directives;

007.02(h) collect, interpret, analyze, and summarize information used as the basis for recommendations to the Board of Education, through its Secretary, and the Transition Trustees;

007.02(i) direct, manage, and supervise the internal operations of OSERS staff to achieve the primary objectives set by the Board of Education and, as applicable, the Transition Trustees;

007.02(j) hire OSERS staff in accordance with the budget prescribed by the Board of Education and in accordance with OPS policies;

007.02(k) inform the Secretary of the Board of Education and the Transition Trustees of any development that may affect the operation of OSERS; and

007.02(l) work, under the supervision of the Secretary of the Board of Education, with the Nebraska Public Employees Retirement Board (NPERB) to facilitate the transition and transfer of management and general administration of OSERS, effective September 1, 2024, to the NPERB.

007.02(m) report to Transition Trustees monthly on such matters as requested by the Transition Trustees

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## **008 General Administrative Review**

The Board of Education shall review and approve or disapprove all applications for disability retirement, annual budget requests, monthly expense disbursements and retirement benefit payments, administrative service contracts, actuarial service provider contracts, compliance audit contracts, and proposed rules and regulations. The Board of Education shall be provided with copies of all actuarial reports, and all financial and compliance audit reports.

## **009 Travel Policy**

009.01 Except for routine travel to and from Transition Trustees meetings, Transition Trustees members, the Administrator and any OSERS employee shall submit travel requests to the Board of Education for consideration and approval in advance of such travel. The request shall state a business related reason for that travel and an estimate of the cost involved.

009.02 Travel by any Transition Trustee, the Administrator or any OSERS employee shall be approved upon an affirmative vote of a majority of voting members of the Board of Education. Any Transition Trustee who attends a conference paid for in whole or in part by OSERS shall present a written report to the Board of Education following such Transition Trustee's return.

009.03 All travel reimbursements shall be made in accordance with Board of Education Policy 8231.

ENABLING LEGISLATION: §79-980 and § 79-981

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## **CHAPTER 2 – REMITTANCES**

### **001 Scope of the Rule**

This rule provides the method by which Douglas County School District 0001 (District) shall remit employee and employer contributions to the Nebraska State Treasurer.

### **002 Remittances for Employee and Employer Contributions.**

002.01 Remittances for employee and employer contributions must be submitted to NPERS no later than ten (10) calendar days following the end of the month for which the remittances are due.

002.02 Remittances must be made to NPERS on a draft, money order, check, electronic transmittal, or other method approved by the NPERB.

002.03 The District shall submit a report listing individual salaries, contributions and hours worked to NPERS on forms approved by the NPERS. The report must be submitted to NPERS no later than ten (10) calendar days following the end of the month for which the remittances are due.

### **003 Final Pay Report**

A final pay report must be submitted by the District only when requested by NPERS. This request will designate a due date for submission of the report.

### **004 Non-Contributing Member Report**

A non-contributing member report must be submitted by the District within twenty (20) days of an interruption in retirement contributions or termination by the member.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981



## **CHAPTER 3 – MATERIALITY AMOUNTS FOR TRANSACTIONS**

### **001 Scope of the Rule**

The objective of this rule is to establish materiality amounts or tolerance levels for various accounting and processing procedures within OSERS. Materiality amounts addressed in this rule will not affect the reliability of the OSERS' financial statements due to the overall size of the plan. An auditor's consideration of materiality is a matter of professional judgment and is influenced by their perception of the needs of a reasonable person who will rely on the OSERS' financial statements. Materiality judgments are made in light of surrounding circumstances and necessarily involve both quantitative and qualitative considerations. An error or omission is considered material or significant if it changes a reader's interpretation of the financial statements.

### **002 Purpose**

002.01 The following risks or inefficiencies could occur if a materiality policy is not established: (1) the cost plan members incur for staff time, data processing, materials, postage, etc. in processing transactions that may be more than the value of the transaction itself; (2) data processing cannot be timely or efficient if tolerance levels are not available for some editing and processing functions; and, (3) the District and OSERS could be subject to public criticism if such transactions amounts proposed to be reversed or refunded are immaterial.

002.02 The Board of Education has a fiduciary obligation to the OSERS members to spend members' funds wisely and efficiently. The need for materiality amounts within OSERS is apparent due to tolerance levels set within the District's computer system for various edits, parameters, etc.

### **003 Materiality Amounts for OSERS Transactions**

003.01 Reporting. No receivable or payable will be created if remittances from the District for monthly contributions are within +/- \$10.00 per report of the required amount. OSERS will not be billed if the past due interest amount calculated on a monthly late remittance is less than \$10.00.

003.02 Purchase of Service. Payments from members or rollover payments for purchase of service or refunded service will be receipted as payment for contract completion if the payment is within +/- \$10 per report of the amount due.

003.03 Recalculation of a Final Benefit. The monthly retiree benefit payments that require recalculation will not be adjusted if the change in the monthly benefit amount is within +/- \$10.00 per report of the original calculated final benefit.





003.04 Make-up Contributions Agreements. In the case of a contribution error, if the calculation of the missed contribution for the employee and employer in total is \$30 or less, no make-up will be required.

003.05 Refund Buy-Back Purchase. If the variance between the calculated refund amount (the aggregate of employee contributions before the applicable rate of interest is added on) and the member's actual refund distribution is within 0.5%, then the calculated amount will be accepted as valid.

003.06 Ineligible contributions. If ~~the combined total calculation of ineligible contributions for an employee and employer are less than \$50 during a specific time period that is no more than two years in length, then no refund will be made.~~

an employee makes an ineligible contribution, the ineligible employee contribution shall be distributed to the employee. If an employer makes an ineligible contribution, the ineligible contribution will not be distributed directly to the employer. Instead, the employer shall receive a credit toward future contributions.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981

## **CHAPTER 4 – REFUND AND TERMINATION BENEFIT PROCEDURES**

### **001 Scope of the Rule**

This rule governs the procedures for paying refunds and termination benefits.

### **002 Definitions**

002.01 The definitions provided in Nebraska statutory law for the OSERS plan shall apply to the provisions herein. In addition to those definitions, the following definitions shall apply:

002.02 Refund or Termination Benefit means the benefit distributed, whether all or part of a member's retirement account in whatever form it may be lawfully made, when that distribution occurs at the former employee's request and the former employee forfeits any future retirement benefit.

002.03 Termination Date means the date on which the member experiences a bona fide separation from service of employment with the District as set by the Board of Education.

### **003 Refund or Termination Benefit**

003.01 No refund or termination benefit shall be made until the District has provided to OSERS proof that the member's termination date has occurred and that the member's termination was bona fide.

003.02 A member may file an application for a refund or termination benefit not more than one hundred twenty (120) calendar days prior to the member's termination date.

003.03 Distribution Amount

A refund or termination benefit shall consist of the member's entire employee account balance.

003.04 Timing of Distribution

003.04(a) Distribution of a refund to a member shall not occur before the later of (1) four (4) calendar months after the member's termination date and (2) twenty (20) business days after OSERS receives a completed and valid application for a refund.

003.04(b) Distribution of a refund to the beneficiary of a deceased member shall not occur earlier than twenty (20) days after the member's death.



003.05 If the member returns to full-time employment with the District within 180 calendar days of the member's termination date, the member shall be required to repay the entire amount of the refund or termination benefit received plus interest. Payment shall be made within 90-days of returning to work or within two (2) years of returning to employment pursuant to an irrevocable 24 month payroll deduction agreement between the member and the District including interest. If the Administrator determines repayment within two (2) years will create a hardship for the member, then such repayment shall be permitted to be completed within five (5) years of returning to employment and shall be subject to an irrevocable payroll deduction agreement between the member and the District including interest up to 60 months.

#### **004 Required Distributions**

~~The distribution requirements enacted pursuant to the Required Minimum Distribution provisions of 26 United States Code 401(a)(9), federal regulations promulgated under that statute, and Title 303 4. Nebraska Administrative Code Chapter 24 rules shall apply.~~

OSERS shall pay all benefits in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code and Title 303 4. Nebraska Administrative Code Chapter 24. OSERS is subject to the following provisions:

004.01 Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age 72 (if the member was born after June 30, 1949) or age 70 1/2 if the member was born before July 1, 1949 or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the board shall make reasonable efforts to contact the member to distribute the required minimum distribution in compliance with section 401(a)(9) of the Internal Revenue Code.

004.02 The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

004.03 OSERS pursuant to a qualified domestic relations order may establish separate benefits for a member and nonmember.

004.04 If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.

004.05 If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be distributed within five (5) years of his death, unless it is to be distributed in accordance with the following rules:

004.05(a) If the member's surviving spouse is the sole designated beneficiary, the member's remaining interest in the plan is distributed or begins to be distributed by December 31 of the calendar year immediately following the calendar year in which the member died or, if later, by December 31 of the calendar year in which the member would have attained age 72 (if the member was born after June 30, 1949) or age 70 1/2 if the member was born before July 1, 1949), and if the surviving spouse dies before the distribution to the surviving spouse begins, this section shall be applied as if the surviving spouse were the plan member; or

004.05(b) If the member's surviving spouse is not the sole designated beneficiary, the member's remaining interest is to be distributed over the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary; and such distribution begins no later than December 31 of the calendar year immediately following the calendar year of the member's death.

004.06 The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

004.07 The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the members' benefits received from the retirement system.

004.08 Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

## **005 Distributions to U.S. Citizens Living Abroad**

Members who are United States citizens living abroad or ~~green-card holders~~resident aliens living abroad are unable to reject income tax withholding from their refund or termination benefit distributions.

ENABLING LEGISLATION: NEB. REV. STAT. 79-992.

## **CHAPTER 5 – EVIDENCE TO DETERMINE AGE AND STATUS**

### **001 Scope of the Rule**

001.01 This rule governs the types of proof acceptable to determine age, death, marital relationships, and parental relationships for members and beneficiaries in OSERS.

001.02 If proof of age, proof of death, proof of marital status or proof of parental relationship is required in order to properly distribute benefits to a member or the beneficiary of a member, this rule shall govern the types of proof necessary to establish such factual determinations as determined by the Administrator.

### **002 Proof of Age**

002.01 Preferred Evidence of Age:

- 002.01(a) A birth certificate recorded before age 5;
- 002.01(b) A religious record of birth or baptism recorded before age 5;
- 002.01(c) Notification of registration of birth made before age 5; or
- 002.01(d) A delayed birth certificate.

002.02 Other evidence of age: if an individual cannot obtain preferred evidence of age, he or she may submit other convincing evidence of age. The other evidence may be one or more of the following records:

- 002.02(a) Hospital birth record or certificate.
- 002.02(b) Physician's or midwife's birth records.
- 002.02(c) Bible or other family record.
- 002.02(d) Naturalization record.
- 002.02(e) Military record.
- 002.02(f) Immigration record.
- 002.02(g) Passport.
- 002.02(h) Selective service registration record.
- 002.02(i) Employer's record.
- 002.02(j) Marriage record.
- 002.02(k) A certified death certificate.
- 002.02(l) A beneficiary form.
- 002.02(m) A statement signed by the individual giving the reason why he or she cannot obtain other convincing evidence of age and the sworn statements of two other disinterested persons who have personal knowledge of the age of the individual.





### **003 Proof of Death**

#### 003.01 Preferred Evidence of Death

003.01(a) A copy of or extract from the public record of death, or verdict of the coroner's jury of the state or community where the death occurred; or a certificate or statement of death issued by a local registrar or public health official;

003.01(b) A signed statement of the funeral director, attending physician, or official of an institution where death occurred;

003.01(c) A copy of, or extract from, an official report or finding of death made by an agency or department of the United States or any state; or

003.01(d) If death occurred outside the United States, an official report of death by a United States Consul or other authorized employee of the United States Department of State, or a certified copy of the public record of death in a foreign country.

003.02 Other Evidence of Death If the preferred evidence of death cannot be obtained, the individual who must furnish evidence of death will be asked to explain the reason thereof and to submit other convincing evidence, such as sworn statements of at least two disinterested persons who have personal knowledge of the death. These persons must be able to swear to the date, time, place, and cause of death.

### **004 Proof of Valid Marriage**

#### 004.01 Preferred Evidence of Marriage

004.01(a) A copy of the public record of the marriage, certified by the custodian of the record;

004.01(b) A copy of a religious record of the marriage certified by the custodian of the record; or

004.01(c) The original certificate of marriage.

#### 004.02 Other evidence of a marriage.

If preferred evidence of a marriage cannot be obtained, the applicant must state the reason therefore on forms prescribed by the Administrator, and submit:

004.02(a) A sworn statement of the clergy or official who performed the marriage ceremony; or



004.02(b) Other convincing evidence, such as the sworn statements or at least two persons who have direct knowledge of the marriage, preferably eyewitnesses to the marriage ceremony.

## **005 Proof that Marriage Has Ended**

005.01 Preferred evidence

005.01(a) A certified copy of the decree of divorce or annulment; or

005.01(b) Evidence of the death (see subsection 003 of this section) of a party to the marriage.

005.02 Other evidence that a marriage has ended. If the preferred evidence that a marriage has ended cannot be obtained, the member or beneficiary must explain the reason therefore and submit other convincing evidence that the marriage has ended.

## **006 Proof of Parental Relationship**

006.01 Evidence of a natural parent-child relationships

006.01(a) Preferred evidence. If a member or beneficiary is the natural parent or child of a member, preferred evidence of the relationship is a copy of the member's or child's public or religious birth record made before the child was five (5) years of age.

006.01(b) Other evidence. When the preferred evidence of a parent-child relationship cannot be obtained, the Administrator may ask the applicant for evidence of one of the following:

006.01(b)(i) Evidence of the member's marriage or of the marriage of the member's parents, if needed to remove any reasonable doubt of the relationship;

006.01(b)(ii) Evidence that the person claiming to be a child of the presumed parent would be able to inherit under intestate succession laws of the state where the death occurred (or in which the presumed parent had a permanent home);

006.01(b)(iii) A signed statement from the presumed parent that the person in question is his or her natural child

006.01(b)(iv) A copy of a court order showing that the person in question has been declared to be the child of the presumed parent, or a copy of a court order requiring the presumed parent in question



to contribute to the support of the person in question because such person is his or her child,

006.01(b)(v). Or other such supporting evidence as may be required in order to establish the parent/child relationship.

006.02 Evidence of a stepparent/stepchild relationship: The Administrator may require evidence by means of the measures as specified in 005.01 or 005.02 of this rule to show a child's relationship (natural or adoptive) with the spouse of the presumed stepparent and that a valid marriage existed between the presumed stepparent and the spouse.

006.03 Evidence of a parent-child relationship by legal adoption:

006.03(a) Preferred evidence of legal adoption includes:

006.03(a)(i) A copy of the decree or order of adoption, certified by the custodian of the record;

006.03(a)(ii) A photocopy of the decree or order of adoption; or

006.03(a)(iii) Evidence that the spouse of a decedent adopted the children of the decedent after the decedent's death, as specified in the above two subsections.

006.03(b) Other evidence of legal adoption: In the event that the record of adoption is sealed by court order or by law, OSERS will accept as proof of adoption an official notice received by the adopting parents at the time of adoption that the adoption has been completed or a birth certificate issued as a result of the adoption proceeding.

006.04 If the Administrator is not satisfied with proof provided under this Chapter 5, the Administrator may notify the Board of Education and request a Friend of the Court filing for a judicial determination.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981.



## CHAPTER 6 – MISSING OR UNRESPONSIVE MEMBERS AND BENEFICIARIES

### **001 Scope of the Rule**

001.01 This rule and regulation governs the procedures for locating missing members and beneficiaries, the timing of such search methods, and the distribution of unclaimed benefits to missing or unresponsive participants in OSERS.

001.02 Qualified plans under the Internal Revenue Code (IRC) § 401(a) have a duty to make reasonable efforts to locate missing members when a minimum distribution is required to be paid in IRC § 401(a)(9). In addition under its fiduciary duty outlined in Neb. Rev. Stat. § 79-982.01, the Transition Trustees have a duty to make reasonable efforts to locate missing participants and implement rules and regulations for administering benefits for missing or unresponsive members and beneficiaries.

### **002 Definitions**

002.01 “Missing Members” are members who OSERS cannot contact because they have OSERS does not have updated information as to the member's current whereabouts, the member has moved and left no forwarding address, or the member has deceased and OSERS is not aware of the member's death.

002.02 “Member” means a member, a beneficiary, or an alternate payee participating in OSERS.

002.03 “Unresponsive members” means members who do not respond to OSERS's notices, communications, or other disclosures.

### **003 Methods for Locating Missing or Unresponsive Members**

003.01 Prior to OSERS making a determination that a member is missing, the Administrator will have used routine methods of delivering notice to members, such as first-class mail or electronic notification.

003.02 If the methods identified in subsection 003.01 fail to obtain the information necessary for a distribution or the Administrator has reason to believe that a member has failed to inform OSERS of a change in address, then the member will be considered missing and the Administrator may undertake one or more of the following steps and procedures to locate a missing member:

- (a) certified mail;
- (b) checking related plan records;
- (c) checking with the designated plan beneficiary;
- (d) using a letter forwarding service;
- (e) Internet search tools;
- (f) commercial locator services;
- (g) credit reporting agencies; and,





(h) other reasonable search methods as determined by the Administrator.

003.03 The Administrator shall make reasonable attempts to contact the member. A reasonable attempt shall include: (i) providing notice to the member at the last known address via certified mail; (ii) determining whether the employer's records or the records of another plan maintained by the employer has a more current address for the member; (iii) attempting to contact any named beneficiary of the member; and (iv) searching for the missing member via free electronic search tools, such as Internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances, the Administrator may use other search methods listed in subsection 003.02.

~~003.03 — The Administrator is not obligated to take each of the steps listed in subsection 003.02 if one or more of the search methods are unsuccessful in locating a missing participant.~~

003.04 An unresponsive member will be considered missing by the Administrator if there is no knowledge on the part of the Administrator that the member is intentionally choosing to disregard the attempted notices or other disclosures sent by the Administrator to the participant's last known residential or email addresses. The Administrator may verify the intentions of the member by attempting to contact the member by phone call.

#### **004 Cost of Search Methods**

004.01 The costs of using the search services described in 003.02 may be administratively charged to the missing member's account. Such costs, if assessed, shall include reasonable charges associated with the search methods utilized.

004.02 The Administrator will consider the size of a missing member's account balance in relation to the costs of the search method utilized when deciding whether the use of such services are appropriate. If the cost of a search method utilized is (a) less than \$200 and (b) less than 10% of a missing participant's account balance, then such cost may be considered by the Administrator as a reasonable expense in locating the missing member.

004.03 Some search methods described in 003.02 involve a nominal expense and because there is a significant potential for effectiveness in locating the missing member, the Administrator will utilize such search methods, regardless of the size of the missing member's account balance, or reasonableness limits described in subsection 004.02.

#### **005 Timing of Search Methods**

005.01 Once a member has been determined to be missing after routine

methods of delivering notice have been undertaken in subsection 003.01, the Administrator will within ninety (90) days after making such determination begin a formal search process, and implement the search methods in subsection 003.02.

005.02 The formal search process will consist of OSERS staff undertaking the search methods in subsection 003.02 based upon the likelihood of success for each method utilized. The Administrator will determine the order and frequency in which each method is used. This determination will take into consideration the known information regarding the missing member, including but not limited to the following:

- (a) last known address or residence;
- (b) date of last known correspondence from the participant;
- (c) information about relatives and beneficiaries;
- (d) employment information;
- (e) court records; and,
- (f) any other information known to OSERS or transmitted by the District to OSERS.

005.03 At least once every twelve (12) months, the Administrator should undertake one or more of the methods listed in subsection 003.02 during a formal search process.

005.04 The formal search process will continue until property held by OSERS for the benefit of the member is presumed abandoned in accordance with subsection 007.01.

#### **006 Uncashed Checks or Returned Electronic Fund Transfers**

006.01 Upon the return of an uncashed check or returned electronic fund transfer (EFT), the Administrator shall perform due diligence in determining why the check or EFT was returned or uncashed. The Administrator will make a reasonable attempt to reconcile the issue causing the check or EFT to be returned or uncashed.

The Administrator may place a "hold" on the monthly payments of a member whose physical check or EFT is returned until the matter is resolved. When resolved, the payments will be reconciled and if applicable resume to the member without interest.

006.02 If it is determined by the Administrator that the attempted recipient of the check or EFT is missing, then the Administrator shall undertake the search methods described in section 003 in order to locate the participant and effectuate the payment.

#### **007 Distributing Unclaimed Benefits**

007.01 Pursuant to Neb. Rev. Stat. § 69-1307.03, all distributions held by OSERS, which has not been paid or distributed for more than 180 days after the earliest of the following: (a) the actual date of distribution or attempted distribution; (b) the date contracted for distribution in the plan; or (c) the date specified in the internal revenue law of the United States by which distribution must begin in order to avoid a tax penalty, is presumed abandoned unless the participant within the five (5) years preceding any such date has made additional contributions or transfers of funds to plan, was paid or received a distribution, communicated concerning the retirement account, or otherwise indicated an interest as evidenced by a memorandum or other record on file with OSERS.



007.02 Pursuant to Neb. Rev. Stat. § 69-1310, the District shall report to the State Treasurer property presumed abandoned as identified in subsection 007.01. ~~The report shall be filed before November 1st of each year as of June 30th next preceding. The property must accompany the report unless excused by the State Treasurer for good cause. The report shall be verified by the Administrator and shall include: All unclaimed benefit payments shall revert to, and again become part of the OSERS trust fund; provided that any such forfeited amounts shall be reinstated upon application therefor by the participant, a surviving spouse, or beneficiary entitled thereto.~~

007.03

- ~~(a) The name, if known, and last known address, if any, of each missing participant from OSERS' records to be the owner of any property presumed abandoned;~~
- ~~(b) The identifying number, if any, or description of the property and the amount appearing from the records to be owed to the participant, except that items of less than twenty-five (\$25) dollars may be reported in the aggregate;~~
- ~~(c) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the participant with respect to the property; and,~~
- ~~(d) Other information which the State Treasurer may prescribe by rule.~~

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~~007.03 If the Administrator knows the whereabouts of a previously determined missing member, the Administrator shall, before the filing of the annual report in subsection 007.02, communicate with the member and take necessary steps to prevent abandonment from being presumed. The Administrator shall exercise due diligence to ascertain the whereabouts of the missing member.~~

~~007.04 The District to pay or deliver to the State Treasurer all abandoned property specified in the report described in subsection 007.02, except that, if the member establishes his/her right to receive the abandoned property to the satisfaction of the Administrator within the time specified in Neb. Rev. Stat. §69-1311, or if it appears that for some other reason the presumption of abandonment is erroneous, then the District need not pay or deliver the property, which will no longer be presumed abandoned, to the State Treasurer, but in lieu thereof the Administrator shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.~~

~~007.05 Once the abandoned property has been paid or delivered to the State Treasurer, OSERS will no longer be responsible for returning the participant's abandoned property to the participant.~~

ENABLING LEGISLATION: NEB. REV. STAT. § 79-981

## **CHAPTER 7 – MODIFICATION OF SCHOOL CREDITABLE SERVICE**

### **001 Scope of the Rule**

This rule establishes the rules and regulations for a member to make a request for a modification or correction of the creditable service reported on their statement of information.

### **002 Creditable Service Statement and Request for Modification**

002.01 At least every two years, the Administrator shall send to each contributing member of the retirement system by first-class mail, a statement of creditable service, reported salary, and other such information as is determined by the Administrator to be necessary in calculating the member's retirement benefit.

002.02 If the member requests a modification or correction of his or her statement, the member shall make such request on forms created by the Administrator. The member may provide additional documentation to the Administrator supporting such modification or correction and provide clear and convincing evidence that the statement is in error.

### **003 Determination for Modification**

003.01 The Administrator shall, within sixty (60) days after receipt of the request and documentation supporting the modification or correction, determine whether the member has proven by clear and convincing evidence that the statement shall be modified or corrected, and notify the member of his or her decision.

003.02 The Administrator shall consider the documentation sent by the member and the records maintained by the District and OSERS. If the Administrator determines that the member has provided clear and convincing evidence, the Administrator shall modify or correct the statement. If the Administrator determines that the member has not provided clear and convincing evidence, the Administrator shall deny the modification or correction.

### **004 Failure to Make Timely Request**

004.01 If the member does not make a request in subsection 002.02 and provide documentation within ninety (90) days following the mailing of the letter described in subsection 002.01, the member shall be deemed to have waived his or her request for a modification or correction.

004.02 The Transition Trustees have an ongoing fiduciary duty to modify or correct a member's statement if the Transition Trustees ~~discovers~~discover an error in the information ~~it has~~they have on record. A modification or correction shall be made within sixty





(60) days after the error is brought to the attention of the Administrator, the Transition Trustees or the Board of Education.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-981 and 79-782.01.

## **CHAPTER 8 – SERVICE CREDIT**

### **001 Scope of the Rule**

This rule shall govern how service credit determinations are made for members of OSERS who provide compensated services in any fiscal year.

### **002 School Employees Service Credit Determination**

002.01 Membership service means service on or after September 1, 1951, as an employee of the District and a member of OSERS. Credit for more than one year of membership service shall not be allowed for service rendered in any fiscal year.

002.02 Beginning September 1, 2005, a member shall be credited with a year of membership service for each fiscal year in which the member performs one thousand or more hours of compensated service as an employee of the District. For an employee who becomes a member prior to July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the District during periods when no service is performed due to vacation or approved leave.

002.03 For an employee who becomes a member on or after July 1, 2018, an hour of compensated service shall include any hour for which the member is compensated by the District during periods when no service is performed due to used accrued sick days, used accrued vacation days, federal and state holidays, personal days, bereavement days, and jury duty leave for which the member is paid full compensation by an the employer.

002.04 If a member performs less than one thousand hours of compensated service during a fiscal year, one-tenth of a year of membership service shall be credited for each one hundred hours of compensated service by the member in such fiscal year. In determining a member's total membership service, all periods of membership service, including fractional years of membership service in one-tenth-year increments, shall be aggregated.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-978(23) and 79-981.



## **CHAPTER 9 – COMPENSATION FOR RETIREMENT CONTRIBUTIONS AND BENEFITS**

### **001 Scope of the Rule**

This rule will apply to the definition of employee compensation subject to retirement contribution for members of OSERS. In addition, this rule will apply to the definition of compensation in the calculation of benefits.

### **002 General Definitions**

002.01 The definitions provided in Nebraska statutory law for the OSERS plan shall apply to the provisions herein as they relate to that plan. In addition to those definitions, the following definitions shall apply:

002.02 “Converted into cash payments means, with respect to benefits such as unused leave or employer-paid insurance premiums, an arrangement whereby a member has individually arranged with his or her employer to receive an equivalent amount of cash, in lieu of receipt of the actual benefit.

002.03 “Flat salary means a fixed dollar amount provided for in a member’s contract of employment that is paid by the employer to the member with respect to each pay period, which such member may voluntarily choose to receive in cash, apply to insurance premiums, or apply to a plan offered by employer the under the Internal Revenue Code to defer or exclude certain amounts from income, or allocate based on a combination of the foregoing.

002.04 “Internal Revenue Code” means the federal internal revenue code of 1986, [amended and](#) as further defined pursuant to Neb. Rev. Stat. § 49-801.01.

### **003 Compensation with respect to OSERS**

003.01 Compensation means gross wages or salaries payable to the member during a fiscal year and includes (i) overtime pay, (ii) member contributions to the retirement system that are picked up under section 414(h) of the Internal Revenue Code, as defined in section 49-801.01, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code, as defined in section 49-801.01, or any other section of the code which defers or excludes such amounts from income.

003.02 Compensation does not include (i) fraudulently obtained amounts as determined by the Board of Education, (ii) amounts for accrued unused sick leave or accrued unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for



services not actually rendered, (viii) early retirement inducements, (ix) cash awards, (x) severance pay, or (xi) employer contributions made for the purposes of separation payments made at retirement and early retirement inducements.

003.03 For purposes of determining a member's final average compensation in connection with calculation of such member's retirement benefit Compensation shall be adjusted as provided in Chapter 10.

#### **004 Internal Revenue Code Limitations**

Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. ~~For an employee who was a member of OSERS before the first plan year beginning after February 20, 1982, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on August 31, 1993.~~

ENABLING LEGISLATION: NEB. REV. STAT. 79-9,100.



## **CHAPTER 10 – CAPPING OF RETIREMENT COMPENSATION**

### **001 Scope of the Rule**

This rule governs the procedures for applying compensation limits contained in OSERS and calculating the retirement annuity for members who are eligible to receive a retirement benefit.

### **002 Definitions**

002.01 All terms used in this chapter shall have the meaning defined in the Class V School Employees Retirement Act.

002.02 “Adjusted Compensation” means an amount equal to the member’s compensation for a plan year during the capping period as modified, if at all, pursuant to the applicable statutory capping provisions of the Class V Retirement Act.

002.03 “Base Year” means the plan year immediately preceding the capping period.

002.04 “Capping Period” shall have the meaning assigned to such term in section 79-9,100 of the Class V School Employees Retirement Act.

### **003 Conventions for Calculation of Final Average Compensation or Final Average Monthly Compensation**

#### **003.01 DETERMINATION OF FINAL AVERAGE COMPENSATION.**

003.01(a) The calculation of a member’s final average compensation shall commence by dividing the entirety of the member’s service into a succession of 12 month periods, with the last such period ending the month during which the member’s final compensation date occurs.

003.01(b) For example, and for illustrative purposes only, if a member’s final compensation date occurs during August of a given year, the member’s service shall be divided into a series of the 12-month periods, each of which shall begin with the month of September and end with the following month of August.

#### **003.02 ADJUSTMENT OF COMPENSATION RECEIVED DURING THE CAPPING PERIOD.**

Solely for purposes of calculating a member’s final average compensation, the compensation received by a member during the capping period shall be limited by excluding the portion, if any, of such member’s compensation for a plan year that exceeds the member’s compensation for the preceding plan year, as adjusted





below, by more than eight percent. The capping period begins with the first year following the base year and ends with the most recent year. Such limitation of compensation during the capping period shall be calculated as follows:

003.02(a) Compensation for the first year of the capping period shall be equal to the lesser of:

003.02(a)(i) the member's compensation for such year; or

003.02(a)(ii) an amount equal to the member's compensation for the base year multiplied by 108%.

003.02(a)(iii) This amount is referred to as the member's "adjusted compensation" for the first year of the capping period.

003.02(b) Compensation for the second year of the capping period shall be equal to the lesser of:

003.02(b)(i) the member's compensation for such year; or

003.02(b)(ii) an amount equal to 108% of the lesser of:

003.02(b)(ii)(A) the member's compensation for the first year of the capping period; or

003.02(b)(ii)(B) the member's "adjusted compensation" for the first year of the capping period.

003.02(b)(iii) This amount is referred to as the member's "adjusted compensation" for the second year of the capping period.

003.02(c) Compensation for the third year of the capping period shall be equal to the lesser of:

003.02(c)(i) the member's compensation for such year; or

003.02(c)(ii) an amount equal to 108% of the lesser of:

003.02(c)(ii)(A) the member's compensation for the second year of the capping period; or

003.02(c)(ii)(B) the member's "adjusted compensation" for the second year of the capping period.

003.02(c)(iii) This amount is referred to as the member's "adjusted compensation" for the third year of the capping period.



003.02(d) Compensation for the fourth year of the capping period shall be equal to the lesser of:

003.02(d)(i) the member's compensation for such year; or

003.02(d)(ii) an amount equal to 108% of the lesser of:

003.02(d)(ii)(A) the member's compensation for the third year of the capping period; or

003.02(d)(ii)(B) the member's "adjusted compensation" for the third year of the capping period.

003.02(d)(iii) This amount is referred to as the member's "adjusted compensation" for the fourth year of the capping period.

003.02(e) Compensation for the fifth year of the capping period shall be equal to the lesser of:

003.02(e)(i) the member's compensation for such year; or

003.02(e)(ii) an amount equal to 108% of the lesser of:

003.02(e)(ii)(A) the member's compensation for the fourth year of the capping period; or

003.02(e)(ii)(B) the member's "adjusted compensation" for the fourth year of the capping period.

003.02(e)(iii) This amount is referred to as the member's "adjusted compensation" for the fifth year of the capping period.

### 003.03 COMPUTATION OF FINAL AVERAGE COMPENSATION OR FINAL AVERAGE MONTHLY COMPENSATION.

After determining the twelve-month (12-month) periods and adjusting compensation for the capping period pursuant, final average compensation or final average monthly compensation shall be computed as follows:

003.03(a) For an individual who became a member before July 1, 2013, and who has thirty-six months of compensation or more, the Administrator shall compare all of the 12-month periods during the member's service to determine the three 12-month periods during which the member's compensation (including any adjustments) was the greatest. The total amount of such compensation for such three 12-month periods shall be



divided by thirty-six. The result of such calculation shall be the member's final average compensation.

003.03(b) For an individual who became a member before July 1, 2013, and who has less than thirty-six months of compensation, the sum of the member's total compensation in all months of creditable service as a school employee shall be divided by the member's total number of months of creditable service. The result of such calculation shall be the member's final average compensation.

003.03(c) For an individual who became a member on or after July 1, 2013, and who has sixty months of compensation or more, the Administrator shall compare all of the 12-month periods during the member's service to determine the five 12-month periods during which the member's compensation (including any adjustments) was the greatest. The total amount of such compensation for such five 12-month periods shall be divided by sixty. The result of such calculation shall be the member's final average compensation.

003.03(d) For an individual who became a member after July 1, 2013, and who has less than sixty months of compensation, the sum of the member's total compensation in all months of creditable service as a school employee shall be divided by the number of the member's total months of creditable service. The result of such calculation shall be the member's final average compensation.

#### **004 Covered Compensation**

004.01 Under no circumstances shall an individual who became a member before July 1, 2013, receive a retirement benefit based upon a final average compensation that includes compensation encompassing more than thirty-six (36) months of creditable service.

004.02 Under no circumstances shall an individual who became an OSERS member on or after July 1, 2013, receive a retirement benefit based upon a final average compensation that includes compensation encompassing more than sixty (60) months of creditable service.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-9,100



## **CHAPTER 11 – PURCHASE OF SERVICE CREDIT**

### **001 Scope of the Rule**

The provisions of this regulation apply to members of OSERS.

### **002 General Provisions**

002.01 The Administrator is responsible for administering the purchase of service provisions in the statutes governing OSERS.

002.02 For purposes of determining eligibility for purchase of service, a member shall mean a person working for the District and contributing to the retirement system.

002.03 The interest rate used to determine the one-time cost of purchasing service shall be the investment return assumption as prescribed in Neb. Rev. Stat. sec. 79-978. If payments are made on the installment method then an additional finance charge will be assessed as defined.

002.04 Actuarial cost shall mean the full cost of purchasing service allowed by law as determined by the actuary under contract with the retirement system. The full cost of purchasing service shall be calculated based on the increase in the actuarial accrued liability resulting from the purchase of service assuming the member is actively employed until age sixty-five (65). The actuarial assumptions used when determining the actuarial cost shall be those adopted by the Board of Education as recommended by the actuary.

002.05 A member wanting to make a purchase of service must give notice of his or her intent to purchase service including method of payment on forms prescribed by the Administrator.

002.06 Receiving Payments for Refunded Service.

A former member of OSERS who once again becomes a contributing member of OSERS as a result of reemployment on or after April 17, 2014, must complete repayment of a refund pursuant to Section 003 hereof prior to the earlier of such member's termination of employment or the fifth anniversary of such member's date of reemployment.

002.07 For purposes of this regulation, employment shall mean an employee's first date of compensated service. Reemployment shall mean being rehired and once again becoming a contributing member of OSERS after having previously terminated employment with the District.

002.08 In order to purchase service credit, the member must file a detailed application to purchase service on a form prescribed by the Administrator, before





payments will be accepted. To allow sufficient processing time the application must be received by the Administrator at least ninety (90) days before the member experiences a termination of employment. The Administrator may waive this requirement upon consultation and approval by the Secretary of the Board of Education under appropriate circumstances based on the volume of pending inquiries and applications, availability of resources, staffing levels and competing priorities.

002.09 In no case shall service credit be granted until all payments for the purchase of that service have been completed.

002.10 Code shall mean the Internal Revenue Code [of 1986](#), as amended.

002.11 Code section 415 defined contribution limits shall apply to all after-tax payments made for purchases of service except for ~~payments to repay original, mandatory contributions withdrawn for repayments for refunded~~ service ~~years in accordance with Code section 415(k) and Section 003.~~

### **003 Repayment of Refund**

003.01 General Provisions.

003.01(a) Except as otherwise provided in this Section 003, all general provisions in Section 002 and methods of purchasing service as defined in Section 007 in this regulation will apply to the restoration of relinquished creditable service by repayment of a refund.

003.01(b) From and after April 17, 2014, the cost of repaying a refund with respect to a member of OSERS will be an amount equal to the member contributions for the years of relinquished creditable service being repurchased, plus interest in an amount equal to the actuarial assumed rate of return on such amount to the date of repayment. A member must be a contributing member after reemployment in order to repay a refund.

003.01(c) Refunded service must be purchased from the most current fiscal year to the oldest fiscal year and the member must purchase the exact amount of creditable service earned in each fiscal year. Fiscal years where creditable service was not earned will not be included in the repayment of a refund.

003.01(d) Before the repayment of a refund will be processed by OSERS, the member's service must be verified.

003.02 Initiating a Refund Inquiry.

003.02(a) From and after reemployment, a contributing member may initiate a request for the repayment of a refund by making a written inquiry to the Administrator (a "refund inquiry"). The Administrator will respond to



refund inquiries in the order received, provided that priority may be given to refund inquiries from members who are within one year of retirement. The Administrator's response times with respect to refund inquiries will depend on the volume of inquiries, availability of resources, staffing levels and competing priorities.

003.02(b) In response to a refund inquiry, the Administrator will calculate an estimated cost for the amount of relinquished creditable service the member proposes to restore by repayment of a refund (a "cost estimate"). The Administrator will deliver the cost estimate to the member via first class mail or other reliable means. In addition to the cost estimate, the Administrator's response to the refund inquiry will also include an application for purchase of refunded service, method of payment form, rollover form and/or such other documentation as may be necessary.

003.03 Filing and Processing of an Application Purchase of Refunded Service.

003.03(a)(i) If the member wishes to proceed with the repayment of a refund after receiving a cost estimate, the member must deliver a valid and complete application for purchase of refunded service to the Administrator prior to the applicable date set forth in Section 002.06 hereof. If the member responds to the cost estimate by delivering to the Administrator something other than a valid and complete application, the Administrator will inform the member in writing of the deficiency in the application.

003.03(a)(ii) For purposes of this Chapter 11, "valid and complete application" means the delivery by a member to the Administrator of a completed application for purchase of refunded service, completed method of payment form and (if required) a completed rollover form, including all signatures and any attachments necessary for the Administrator to complete the processing of such application.

003.03(b) The Administrator will process valid and complete applications for purchase of refunded service in the order received, provided that priority may be given to applications from members who are within one year of retirement. The Administrator's response times with respect to valid and complete applications for purchase of refunded service will vary, depending on the volume of applications, availability of agency resources, staffing levels and competing agency priorities. It is the member's responsibility to deliver a valid and completed application to the Administrator within a sufficient time to permit processing of the application and completion of payment by before expiration of timeframes set forth in Section 002.06 hereof.



003.03(c) After determining that the member has submitted a valid and complete application for purchase of refunded service, including all necessary signatures, the Administrator will calculate and send to the member, via first class mail, a written report of the actual cost for the relinquished creditable service to be restored by the member (an "actual cost report.").

#### 003.04 Payment for Restoration of Relinquished Creditable Service

003.04(a) A member's payment for the restoration of relinquished creditable service may be made via a lump sum direct payment to OSERS, installment payments, irrevocable payroll deduction authorization, cash rollover or trustee-to-trustee transfer.

003.04(b)(i) If repayment of a refund is to be made via lump sum direct payment, rollover or trustee-to-trustee transfer, full payment must be received by the Administrator on or before the payment date set forth in the related actual cost report, which date shall be no later than the applicable date set forth in Section 002.06(a) hereof. Failure by the member to make full payment by the required date (plus a three business day grace period) will result in recalculation of the amount due or termination of the member's application for ~~purchase of repayment of the~~ refunded service. Subject to Section 002.06(a) hereof, the Administrator may, in consultation with and the approval of the Secretary of the Board of Education, permit a grace period beyond the payment date set forth in the actual cost report, under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.

003.04(b)(ii) If the repayment of a refund is to be made via consecutive installment payments or irrevocable payroll deduction authorization, such payments must be made in compliance with the schedule set forth in the actual cost report and all required payments must be received by OSERS on or before the earlier of the applicable date set forth in Section 002.06(a) hereof. Failure by the member to make each payment in compliance with the schedule set forth in the actual cost report will result in termination of the member's application for ~~purchase of repayment of the~~ refunded service. Subject to Section 002.06(a) hereof, the Administrator may, in consultation with and the approval of the Secretary of the Board of Education, permit a grace period with respect to such payment schedule under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.



## **004 Out-of-State Service**

004.01 For purposes of this regulation, "out-of-state service" shall mean creditable service rendered in public schools in another state or ~~schools in this state~~ any other school district not covered by the ~~school retirement system established pursuant to Class V School Employees Retirement Act or~~ Neb. Rev. Stat. § ~~79-979-903~~ and subject to the limitations established by law.

~~a district as provided in the Class V School Employees Retirement Act. 004.02 All general provisions in Section 002 and methods of purchasing service as defined in Section 006 of this regulation will apply to the purchase of out-of-state service.~~

~~004.03 Service for the out-of-state service must be verified on forms prescribed by OSERS before the actual cost of purchase can be determined.~~

~~004.04 The cost of purchasing out-of-state service is the actuarial cost of the service incurred by OSERS for allowing such additional service credit to the employee.~~

~~004.05 A member's out-of-state service credit may not exceed the amount of service credit the member actually accrues as a school employee in the State of Nebraska. When a member who has purchased out-of-state service credit ceases employment and applies for monthly retirement benefits, the years of service credit attributable to in-state service with a covered employer shall be compared with the years of out-of-state service credit that were purchased. If the years of out-of-state service by the member exceed the years of the member's in-state service, the excess years of out-of-state service will be eliminated in determining the member's benefits under OSERS. The member, if under contract or employed on or after July 19, 1996, shall receive a refund of the cost of the out-of-state service that had been purchased by the member but which is eliminated under this regulation. No interest shall be paid on the refund.~~

004.06 Fractional years of out-of-state service for a member may be purchased.

004.07 When determining the code section 415 benefit limits at the time a member commences benefit payments, the high three consecutive years of ~~section 415~~ compensation must be compensation from the covered employer. This means the out-of-state compensation cannot be used to determine the limit.

## **005 Leave of Absence**

005.01 All general provisions in Section 002 and methods of purchasing service as defined in Section 006 of this regulation will apply to the purchase of service for a leave of absence, as defined by law and set forth in Neb. Rev. Stat. 79-995.





005.02 Verification of the leave, as approved by the school employer, must be received by the Administrator before the actual cost of purchase can be determined. If the cost of purchasing service credit is based upon interest, then the member's compensation immediately prior to the leave must be verified by the school employer.

005.03(a) The cost of purchasing service credit for a leave of absence is computed actuarially unless subsection 005.03(b) of this section applies.

005.03(b) A member who was hired or rehired prior to December 12, 1994, who has not changed employers since that date and who has elected to pay for the leave of absence within three (3) years of returning from the leave and indicating such on forms prescribed by the Administrator, shall pay the cost of purchasing service credit for a leave of absence, which includes member and District contributions that would have been made during the period of leave had the member been actively working in a public school, based on the compensation received immediately prior to the leave, plus the regular interest on contributions that would have accrued.

## **006 Payment Methods**

### 006.01 Installment Method

006.01(a) Members electing to purchase optional service credit with the installment method may choose tax deferred payroll deduction or direct after-tax installment payments. Payments made are subject to IRS code section 415 annual limits. If the contributions qualify as a repayment of original mandatory contributions as described under section 002 of this regulation the section 415 limits do not apply.

006.01(b) Before direct after-tax installment payments can be accepted for purchase of service each year during the installment period, the member must substantiate his or her current compensation in such manner as may be required by the Administrator. If a member's direct after-tax installment payments exceed the applicable code section 415 limit, the excess shall be refunded to the employee and the service credit adjusted accordingly.

006.01(c) Direct after tax installment payments made to OSERS by the member must be by cashier's check, bank draft or money order. Personal checks will not be accepted except for ~~de minimis~~ amounts of \$100 or less in order to meet a purchase cost.

006.01(d) A member may elect to purchase service through payroll deduction pursuant to an irrevocable payroll deduction agreement with the member's employer that authorizes the employer to deduct the payment from the employee's compensation. One copy of the agreement must be on file with the employer and one copy with the Administrator before payments



may begin. In the event a member elects to purchase service by payroll deduction, the covered employer shall be responsible for making timely remittances of the member's contributions for his or her service purchases.

006.01(e) Notwithstanding anything to the contrary in this Chapter 11, OSERS will accept payments made via payroll deduction after the member's last working day, through and including the member's final paycheck, if the member's employment contract calls for part of the member's compensation to be paid in arrears after the member's last working day.

006.01(f) In the event a member's irrevocable purchase agreement becomes inoperative due to the employee's death, disability, or other termination of employment before full payment for the employee's service purchase has been completed, no further contributions for the purchase of creditable service shall be accepted and the employee's retirement benefit under the applicable retirement system shall be computed with service credit equal to the amount of service credit acquired in proportion to the amount of the installment payments paid by the member under the irrevocable purchase agreement.

006.01(g) The finance interest rate used for ~~the direct after tax installment payments and tax deferred payroll deductions~~ shall be the actuarial interest rate assumption based on the expected long-term rate of return as recommended by the actuary and adopted by the Board of Education.

006.01(h) A late fee may be charged when direct payments are not received by the payment deadline. The fee will be based on the finance interest rate as defined by this section.

## 006.02 Rollovers

006.02(a) Consistent with the Internal Revenue Code, OSERS will accept rollovers in payment for lump-sum purchases of service credit, provided the money is an eligible rollover distribution received from one of the following:

006.02(a)(i) A code section 401(a) or 401(k) tax qualified plan.

006.02(a)(ii) A code section 403(a) or (b) tax sheltered annuity account.

006.02(a)(iii) A code section 408(a) individual retirement account (IRA) or a code section 408(b) individual retirement annuity.



006.02(a)(iv) A code section 457(b) deferred compensation plan.

006.02(b) A rollover or transfers from a qualifying tax-deferred account will not be accepted by OSERS without the member certifying that the originating rollover/transfer account has maintained its proper tax qualification conditions under the applicable sections of the Internal Revenue Code.

006.02(c) A direct rollover payment for purchase of service may be made by check from the transferring institution to OSERS, or a check delivered to the member but negotiable only by OSERS will be accepted as a direct rollover.

006.02(d) The amount of the rollover payment accepted by OSERS will be based on the cost of the service purchased and determined only by the Administrator. Funds in excess of the actual purchase cost will not be accepted.

006.02(e) All other federal tax laws governing eligible rollover distributions shall apply.

#### 006.03 Lump Sum Payments

006.03(a) A lump sum payment is a one-time, direct payment by the member for the purchase of eligible service credit.

006.03(b) In all cases, except for eligible rollover distributions, the payment shall be on an after-tax basis and subject to the code section 415 defined contribution annual limits. If the contributions qualify as a repayment of original after-tax, mandatory contributions as described under section 002 of this regulation the code section 415 limits do not apply.

006.03(c) Before a lump sum after-tax payment can be accepted as a purchase of service, the member must substantiate their current compensation in such a manner as may be required by OSERS. If a member's lump sum after-tax payment ultimately exceeds the applicable code section 415(c) limit, the excess shall be refunded to the employee and the service credit adjusted accordingly.

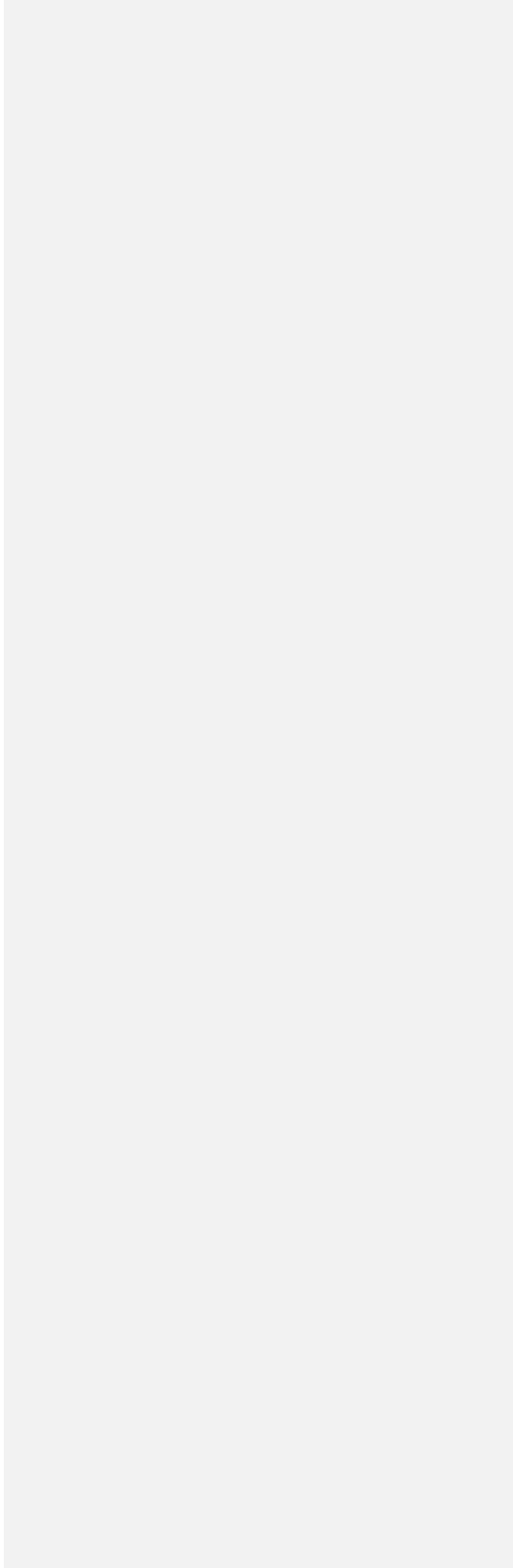
006.03(d) If a member elects to purchase service by lump sum after-tax payments and such purchase exceeds the annual code section 415 limits, the member may be permitted to make payments in immediate succeeding periods to complete the member's purchase of service. Members who are unable to make a lump sum payment due to the limitations of code section

415 may be required by OSERS to use the installment method to complete the payments.

006.03(e) Payments will only be accepted via cashier's check, bank draft or money order.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 79-989, 79-990, 79-991, 79-992, 79-995





## **CHAPTER 12 – MILITARY SERVICE CREDIT AND REEMPLOYMENT**

### **001 Scope of the Rule**

This rule governs the procedures for granting service credit and contributions upon reemployment following military service, as contained in Neb. Rev. Stat. § 79-990. This rule implements the provisions of the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq.

### **002 Definitions**

002.01 Qualified military service is uniformed service as a member of the United States Army, Navy, Air Force, Marines, Coast Guard, Reserves, Army and Air National Guard, the commissioned corps of the Public Health Service, service with the National Disaster Medical System, and any other persons designated by the President in time of war or national emergency. Qualified military service under USERRA requires an honorable discharge.

002.02 USERRA means the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 et seq. 2.

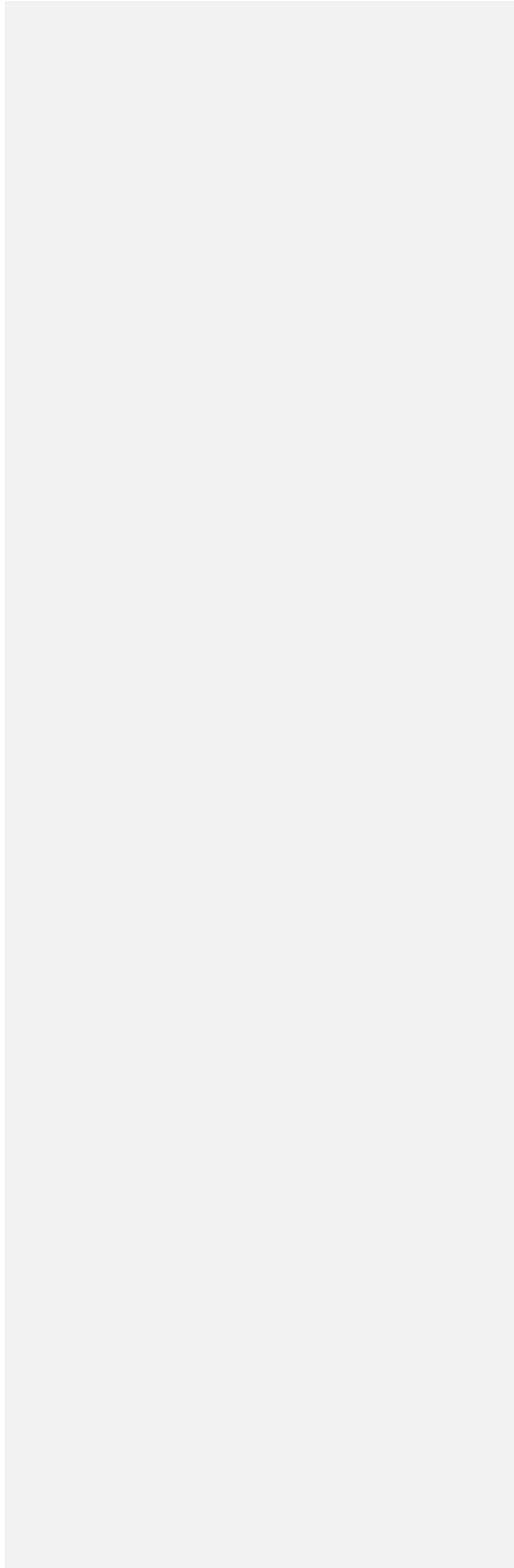
### **003 Notification Requirement and Election of Military Service Credit for all Plans**

003.01 Current service while employed by the District shall not be deemed to be interrupted by qualified military service, when properly authorized by the Board of Education.

003.02 At the time a military leave commences, the District and/or the member shall notify the Board of Education of the leave and the expected length of the leave on forms prescribed by the District. The District may require a member to indicate in advance and notify the Administrator if the member intends to request military service credit at the time of his or her return to work.

003.03 A request to obtain military service credit may be made by the member on forms prescribed by the Administrator within one (1) year following the date of reemployment with the District. An application form prescribed by the Administrator must be filed and verification of the beginning and ending dates of a member's military leave, as well as the applicable compensation amount and honorable discharge, must be received by the Administrator before payments by the member and/or employer will be received.

003.04 Verification of the member's honorable discharge and beginning and ending dates of the member's qualified military service will occur when the member provides the Administrator with a copy of his or her DD Form 214 or other documentation showing the dates of entry into and discharge from active duty, and a copy of the member's certificate of honorable discharge.



## **004 Military Service Credit for the Class V School Employees Retirement Act**

004.01 Military service on or after December 12, 1994.

Pursuant to 38 U.S.C. §§ 4301 et seq. any District employee who is reemployed by a covered school employer within ninety (90) days after honorable discharge or honorable separation from active duty shall be treated as not having incurred a break in service by reason of his or her period of qualified military service. This ninety (90) day period shall be extended if the school employee returns to employment at the beginning of the school year following the school employee's honorable discharge or honorable separation from active duty.

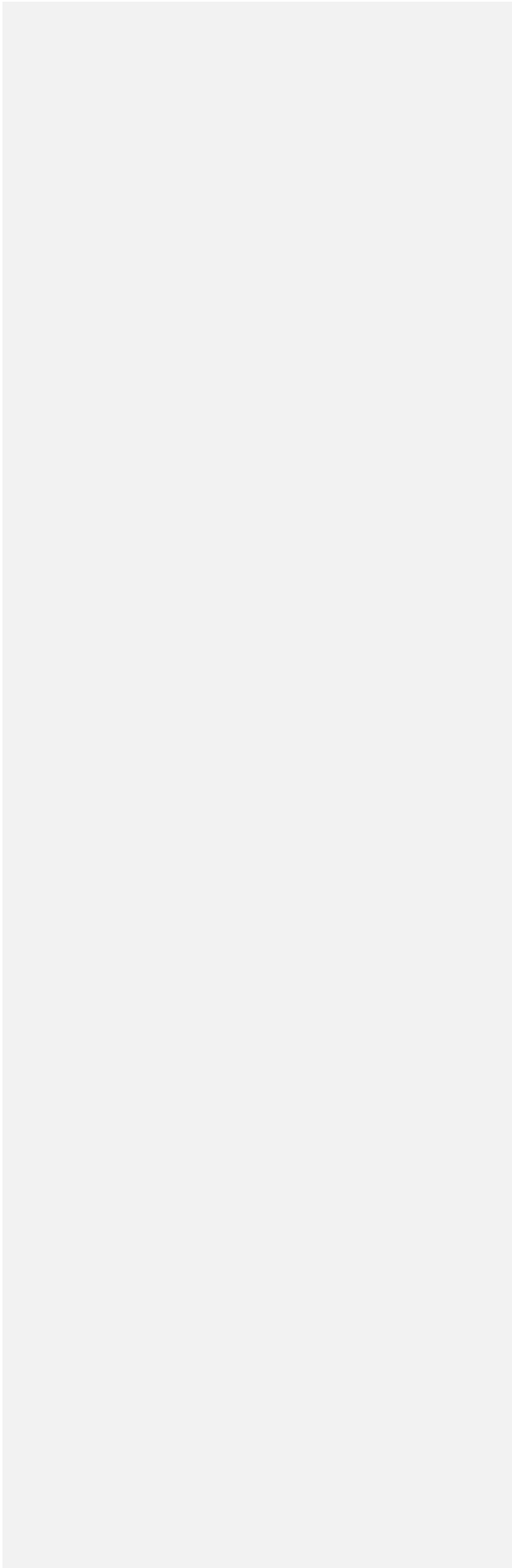
004.02 Such qualified military service shall be credited for purposes of determining the non-forfeitability of the member's accrued benefits and the accrual of benefits under the plan.

004.03 The District shall be liable for funding any obligation of the plan to provide benefits based upon such period of military service.

004.04 Once an election to purchase military service is made in subsection 003.03, the Agency will request salary verification from the pre-military service employer. The salary verification will verify what the member would have earned had the member worked for the employer during the period of military service. Upon receipt of the salary verification by the Administrator, the pre-military school employer will be invoiced for the amount required to fund the obligation benefit of the plan equal to the ~~employee and~~ employer retirement contributions on the salary attributable during the period(s) of military service plus interest equal to the actuarial assumed rate of return. The employee shall be invoiced for the amount required to fund the obligations benefit of the plan equal to the employee retirement contributions. Payment shall be made by the District to OSERS within thirty (30) days of the invoice's receipt.

004.05 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 OSERS, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting 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 vesting purposes.

ENABLING LEGISLATION: NEB. REV. STAT. §79-990, 79-995



**CHAPTER 13 – ADMINISTRATION OF INTERNAL REVENUE SERVICE CODE  
SECTION 415 AND MAXIMUM COMPENSATION LIMITS**

**001 Scope of the Rule**

This rule governs the procedures for specifying Internal Revenue Service Code Section 415 and maximum compensation limits to OSERS.

**002 Definitions.**

002.01 “Code” means the Internal Revenue Code, as amended.

002.02 “Defined benefit dollar limitation” has the meaning defined in 003.01 below, as may be adjusted pursuant to section 003.02 below.

002.03 “Defined Benefit Plan” means OSERS.

**003 Defined Benefit Plan 415 Limitations:**

003.01 Maximum permissible benefit: the annual benefit payable under a defined benefit plan in any limitation year shall not exceed the defined benefit dollar limitation applicable at the annuity starting date. The "defined benefit dollar limitation" is \$195,000, as adjusted, effective January 1st of each year, under section 415(d) of the Code in such manner as the United States Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity without regard to the benefit attributable to the after-tax employee contributions (except pursuant to section 415(n) of the Code) and to rollover contributions, and subject to the applicable adjustments in 003.02. The defined benefit dollar limitation as adjusted under section 415(d) of the Code will apply to limitation years ending with or within the calendar year for which the adjustment applies. If the benefit under the defined benefit plan is other than a straight life or qualified joint and survivor annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity as provided in 003.01(a) or 003.02(b) below before applying the limitations of this 004.

003.01(a) For a benefit paid in a form to which section 417(e) of the Code does not apply (monthly benefit), the actuarially equivalent straight life annuity benefit is the greater of:

(1) the annual amount of the straight life annuity, if any, payable under the defined benefit plan commencing at the same annuity starting date as the form of benefit that is payable to the member computed using the interest rate assumption and mortality table specified in the following sections as applicable to the defined benefit plan: §79-978; or



(2) 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 that is payable to the member, computed using a five percent (5%) interest assumption (or the applicable statutory interest assumption) and the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for that annuity starting date.

003.01(b) For a benefit paid in a form to which section 417(e)(3) of the Code applies (lump sum), the actuarially equivalent straight life annuity benefit is the greater of:

(1) 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 that is payable to the member, computed using the interest rate assumption and mortality table specified in the following sections as applicable to the defined benefit plan: §79-978;

(2) 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 that is payable to the member, computed using a 5.5 percent (5.5%) interest rate assumption (or the applicable statutory interest assumption) and the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for that annuity starting date; or

(3) 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 that is payable to the member computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (using the rate in effect in effect for the first day of the plan year with a one-year stabilization period) and the applicable mortality table that is effective for that annuity starting date under Treasury Regulation section 1.417(e)-1(d)(2), divided by 1.05.

003.02 Adjustments to defined benefit dollar limitation: The "defined benefit dollar limitation" to be used in determining the "maximum permissible benefit" under the defined benefit plans shall be adjusted where required, as provided in 003.02(a) and, if applicable, in 003.02(b) or 003.02(c) below).

003.02(a) Adjustments for less than ten (10) years of participation. If the member has fewer than ten (10) years of participation in a defined benefit 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) of participation in the plan and (ii) the denominator of which is ten





(10). The foregoing reduction required by this 004.02(a) shall not be applicable to preretirement disability benefits or pre-retirement death benefits provided by the defined benefit plan.

003.02(b) Adjustments for benefits commencing prior to age sixty-two (62). If the benefit of a member begins prior to age 62, the defined benefit dollar limitation applicable to the member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the member at age 62 (adjusted under 003.02(a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 003.02(a), if required) computed using the interest rate and mortality table (or other tabular factor) specified in the following sections of as applicable to the defined benefit plans: §79-978, and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 003.02(a), if required) computed using a five percent (5%) interest rate and the applicable mortality table as defined in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for the annuity starting date. Any decrease in the defined benefit dollar limitation determined in accordance with 003.02(b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

003.02(c) Adjustments for benefits commencing after age sixty-five (65). If the benefit of a member begins after the member attains age 65, the defined benefit dollar limitation applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the member at age 65 (adjusted under 003.02(a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 003.02(a), if required) computed using the interest rate and mortality table (or other tabular factor) specified in the following sections as applicable to the defined benefit plans: § 79-978, and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) interest rate assumption and the applicable mortality table as defined in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for the annuity starting date. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

003.03 Benefit Increases: Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former members (with benefits limited by section 415(b)) who have an accrued



benefit under the defined benefit plans immediately prior to the effective date of this section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)).

003.04 Minimum benefit: Notwithstanding anything in this section to the contrary, the benefit otherwise accrued or payable to a member by a defined benefit plan will be deemed to not exceed the "maximum permissible benefit" if:

003.04(a) the benefit payable for a limitation year under any form of benefit with respect to the member under all defined benefit plans does not exceed \$10,000 multiplied by the a fraction (i) the numerator of which is the number of years (or part thereof, but not less than one) of service with the employer and (ii) the denominator of which is ten (10); and

003.04(b) the employer has not at any time maintained a defined contribution plan in which the member participated (not considering mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h) of the Code or postretirement medical benefits under section 419A(d)(1) of the Code as a separate defined contribution plan).

~~003.05 Increase in Compensation Limit for Members hired on or after July 1, 1996:~~

~~003.05 Benefits For Which No Adjustment of the 415(b) Limit is Required: For purposes of this section, the following benefits shall not be taken into account in adjusting these limits: (1) any ancillary benefit which is not directly related to retirement income benefits; (2) that portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity; (3) 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.~~

~~003.05(a) Increase in limit. The annual compensation of each member hired on or after July 1, 1996 taken into account in determining benefit accruals in any plan year beginning after December 31, 2010 shall not exceed \$245,000. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, 2010, compensation for any prior determination period shall be limited as provided by the employer in the adoption agreement.~~

~~003.05(b) Cost-of-living adjustment. The \$245,000 limit on annual compensation in paragraph 003.04(a) shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. 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.~~

~~003.06 Increase in Compensation Limit for Members hired on or before June 30, 1996:~~

~~003.06(a) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in section 414(j) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.~~

~~003.06(b) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in section 414(i) of the Internal Revenue Code maintained by the member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.~~

~~003.07 Section 415(c) limitations on contributions and other additions: 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% of the member's compensation.~~

~~003.07(a) Annual additions are defined to mean the sum (for any year) of employer and member contributions to a defined contribution plan, post-tax member contributions to a defined benefit plan (except for purposes of service purchases, if tested under the modified limit of section 415(b) of the Internal Revenue Code), 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.~~

~~003.07(b) For purposes of applying section 415(c) of the Internal Revenue Code and for no other purpose, the definition of compensation where applicable shall 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.~~

~~003.07(c) Compensation shall 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 shall 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).

003.07(c)(1) However, for limitation years beginning after December 31, 1997, compensation shall 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. 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.

003.07(c)(2) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ 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:

003.07(c)(2)(i) 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; or

003.07(c)(2)(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

003.07(c)(2)(iii) the payment is pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

003.07(d) Any payments not described in paragraph (c)(2) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ 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 or deemed

compensation to the individual if permanently and totally disabled (as defined in section 22(e)(3) of the Internal Revenue Code).

003.07(e) 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 (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

003.07(f) 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.

003.07(g) 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 shall be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

003.07(h) A member's compensation for purposes of this subsection 330.07 shall not exceed the annual limit under section 401(a)(17) of the Internal Revenue Code and Chapter 9 of these Rules and Regulations.

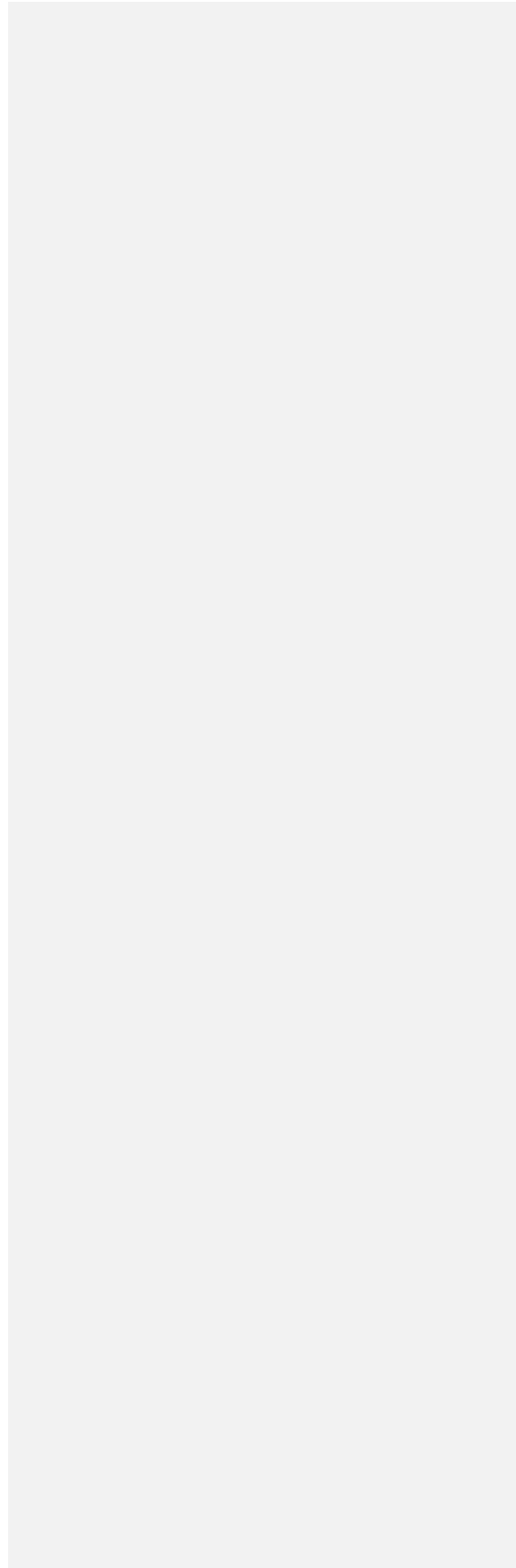
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~~003.06(a) — The annual compensation of each member hired on or before June 30, 1996 taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed the amount which was allowed to be taken into account under the retirement plans as in effect on July 1, 1993, shall not exceed \$360,000. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited as provided by the employer in the adoption agreement.~~

~~003.06(b) — Cost-of-living adjustment; The limit set forth in paragraph (a) on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. 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.~~

~~003.07 — Compensation Limit for Prior Determination Periods: In determining benefit accruals in plan years beginning after December 31, 2010, the annual compensation limit in paragraph (a) of Section 003.04, Increase in Compensation Limit, for determination periods beginning before January 1, 2011, shall be \$245,000.~~

ENABLING LEGISLATION: NEB. REV. STAT. § 79-9,102.



## CHAPTER 14 – BENEFIT AND CONTRIBUTION ADJUSTMENTS

### 001 Scope of the Rule

This rule and regulation sets forth procedures by which the Board of Education shall adjust member benefits and contributions as necessary to comply with Nebraska state and federal laws governing public employee retirement plans.

### 002 Definitions

002.01 “Benefit” means the post-retirement income to be received by a member of OSERS.

002.02 “Employee Contribution” means the dollar amount required to be picked up from an active member’s compensation for deposit into OSERS to fund member benefits.

002.03 “District Contribution” means the dollar amount required to be deposited into OSERS by the District to fund member benefits.

002.04 “Excess Contribution” means an employee contribution or District contribution, or both, that is (a) greater than the statutorily mandated ~~deduction~~reduction from compensation, (b) greater than the statutorily mandated matching contribution required of an employer, (c) submitted on behalf of an employee that is ineligible to participate in the retirement system, or (d) improperly calculated on wages or salary representing compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance 2 settlements, or as otherwise defined by state law.

002.05 “Insufficient Contribution” means an employee contribution or District contribution, or both, which is (a) less than the statutorily mandated ~~deduction~~reduction from compensation, (b) less than the statutorily mandated matching contribution required of a the District, (c) not timely remitted, (d) not remitted due to administrative errors on the part of the District, (e) not remitted due to the failure of the District to enroll the employee in the retirement system when such employee was required to be enrolled, or (f) due to a retroactive salary payment paid pursuant to court order, arbitration, or litigation and grievance settlements.

002.06 “Member” means an individual who has an account in OSERS.

002.06(a) “Active Member” means an individual who is currently employed by the District and making employee contributions into OSERS.



002.06(b) "Inactive Member" means an individual who has made employee contributions to OSERS as an Active Member and has subsequently separated from service with the District.

### **003 Excess Contributions**

003.01 If the Administrator determines that OSERS has received an Excess Contribution from the employee, then, in accordance with Chapter 3, subsection 003.06 of these Rules and Regulations, the Administrator shall ~~return~~credit the Excess Contribution to the District, and the District shall return the Excess Contribution to the employee. Adjustments due to Excess Contributions by employees shall be made ~~within one year of the date the Excess Contribution was received by OSERS. If more than one year has passed since the date the contribution was received, the Excess Contribution shall not be adjusted as soon as administratively practicable.~~

003.02 If the Administrator determines that OSERS has received an Excess Contribution from the District, then the Administrator shall ~~either provide a refund or credit of~~ either provide a refund or credit of the Excess Contribution against future District Contributions. Adjustments due to excess District Contributions shall be made ~~within one year or as soon as practicable from~~ within one year or as soon as practicable from the date the Excess Contribution was received by OSERS. ~~If more than one year has passed since the date the contribution was received, the Excess Contribution shall not be adjusted.~~ Notwithstanding the foregoing, OSERS will only provide a ~~refund or credit~~ refund or credit to the extent allowed under the Internal Revenue Code and any related guidance thereunder, including, but not limited to, a mistake of fact as permitted under Revenue Ruling 91-4 or other applicable Internal Revenue Service guidance.

~~003.03 Contributions made on compensation in excess of the limitations imposed by statute shall not be refunded.~~

### **004 Insufficient Contributions**

004.01 Active Members

004.01(a) Except as provided in subsection 004.03, if the Administrator determines that OSERS has received Insufficient Contributions from the District of an active member, the Administrator shall require the District to remit the additional required Employee Contributions and District Contributions, and this amount may include interest.

004.01(b) Additional Employee Contributions required under subsection 004.01(a) shall be picked up by the District in accordance with Internal Revenue Code § 414(h) and the contributions so picked up shall be treated as District Contributions in determining federal tax treatment under the Internal Revenue Code. The District shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee.



004.01(c) Except as provided in subsection 004.03, any additional District Contribution shall be made in conjunction with the Employee Contribution. If a member terminates employment prior to payment of the required employee contribution, then the District shall complete payment of the employee and District share of the required contribution.

004.02 Inactive Members. Except as provided in subsection 004.03, if the Administrator determines OSERS has received Insufficient Contributions from the District for an Inactive Member, then the Administrator shall require the District to remit the additional required contributions, including interest, as necessary to make up the Insufficient Contributions.

004.03 All Insufficient Contribution amounts required under this section shall be paid by the District unless the Administrator determines it is either unreasonable or unfeasible for the District to pay the insufficient employee or District contributions.

004.04 All employee and District contributions amounts required to be paid under this section shall be paid by the District within sixty (60) days of the Administrator providing notice to the District that there is an Insufficient Employee or District Contribution remittance due.

## **005 Overpayment of Benefits**

005.01 If the Administrator determines that any Member or beneficiary has received a retirement benefit that is in excess of the retirement benefit such Member or beneficiary is entitled to receive under the governing statutory provisions, the Administrator may offset future benefits as necessary to recoup the overpayment, with interest so long as recoupment will occur within the Member's remaining life expectancy. In lieu of future offsets, the Member or beneficiary shall repay the overpayment to OSERS, and such repayment may include interest charges. This section is subject to the materiality amounts listed in Chapter 3 of these Rules and Regulations. The correction of the overpayment of benefit shall be consistent with the Internal Revenue Service's Employee Plans Compliance Resolution System, Revenue Procedure 2021-30, as amended.

005.02 ~~Reductions~~ Actuarial reductions in future benefit payments pursuant to this regulation shall not exceed twenty-five (25%) percent of the gross monthly retirement benefit received by the member or beneficiary unless the member or beneficiary agrees, in writing, to a greater offset.

005.03 Failure by a Member or beneficiary to repay or offset an amount of overpayment and interest charges described in subsection 005.01, will result in the Administrator referring the matter to the Board of Education for collection or other enforcement action deemed appropriate by the Board of Education. If it is impractical for the Administrator to initiate an offset because there are no additional future benefit payments scheduled, then the Administrator will make at least three attempts during

a 120 day period to contact the Member or beneficiary in order to effectuate a repayment, prior to referring the matter to the Attorney General.



## **006 Underpayment of Benefits**

If the Administrator determines that any Member or beneficiary has received a retirement benefit that is less than the retirement benefit such Member or beneficiary is entitled to receive under the governing statutory provisions, the Administrator shall within a reasonable period of time not to exceed ninety (90) days make payment equal to the deficit amount plus interest. This section is subject to the materiality amounts listed in Chapter 3 of these Rules and Regulations.

## **007 Interest**

007.01 Interest shall be assessed and collected by the Administrator from the District if it submits an insufficient contribution. Interest shall be calculated from the date the Employee or District contribution was due to be remitted to OSERS until the date such contribution is remitted.

007.02 The rate of interest to be assessed on Insufficient Contributions, or repayment of excess benefits, shall be the rate of regular interest as defined in the Class V Retirement Act.

## **008 Notice of Adjustment**

008.01 If the Administrator makes any adjustment pursuant to these regulations, then the Administrator shall mail notice of the proposed adjustment to the member, the District, or any other person directly affected by such adjustment within thirty (30) days of the adjustment.

008.02 The notice required by this regulation shall be mailed to the last known address of the member, District, or other affected person as reflected by the records of OSERS.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-9,103



## **CHAPTER 15 – EMPLOYER AUDIT REQUIREMENTS**

### **001 Scope of Rule**

This rule and regulation requires that compliance with certain statutory retirement plan provisions be reviewed during any regularly scheduled audit of the District, and that a copy of any audit report reflecting a finding of non-compliance be filed with the NPERB. This regulation also requires the District to file annually a list of all employees employed the previous calendar year.

### **002 Definitions**

002.01 “Employee Contribution” means the dollar amount statutorily required to be deducted from an employee’s compensation for deposit into OSERS.

002.02 “District Contribution” means the dollar amount required to be deposited into OSERS by the District to fund member benefits.

002.03 “Excess Contribution” means an employee contribution or District contribution, or both, that is (a) greater than the statutorily mandated deduction from compensation, (b) greater than the statutorily mandated matching contribution required of an employer, (c) submitted on behalf of an employee that is ineligible to participate in the retirement system, or (d) improperly calculated on wages or salary representing compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements.

002.04 “Insufficient Contribution” means an employee contribution or District contribution, or both, which is (a) less than the statutorily mandated deduction from compensation, (b) less than the statutorily mandated matching contribution required of an employer, (c) not timely remitted, (d) not remitted due to administrative errors on the part of the employer, (e) not remitted due to the failure of the employer to enroll the employee in the retirement system when such employee was required to be enrolled, or (f) due because of a retroactive salary payment paid pursuant to court order, arbitration, or litigation and grievance settlements.

### **003 Audit Requirements**

003.01 During the course of any regularly scheduled, statutorily required audit of the District, the auditor shall check for compliance with the statutory retirement system membership and contribution provisions applicable to the



District. The District's internal control structure for determining retirement system membership and contribution compliance shall be considered significant internal control systems to be audited and covered by the report on internal controls.

003.02 The audit shall include an examination of the District's personnel records on current employees who are not enrolled as members in the retirement system to verify that such employees do not meet the requirements for mandatory membership. The audit shall also include an examination of the District's personnel records on current employees who are members in the retirement system to verify that such employees meet all applicable requirements for membership.

003.03 The audit shall include an examination of the District's payroll records to determine whether the employer has made any insufficient contributions or any excess contributions.

#### **004 Audit Report**

004.01 All compliance deviations relative to the applicable statutory provisions for OSERS shall be included by the auditor in the audit report or a written letter to management which shall be presented to the Board of Education and the Transition Trustees.

004.02 The District shall submit a copy of the letter to management or that portion of the audit report pertaining to retirement system issues to the NPERB within thirty (30) days of receipt of the letter or audit report by the District.

#### **005 Annual List of Employees**

005.01 Except as provided in regulation 005.03, on or before January 31st of each year, the District shall compile a list of all employees that were on the District's payroll during the prior calendar year. The list shall include each employee's name, social security number, current address, annual salary, date of hire, whether such employee was employed on a full-time or part-time basis, and whether such employee was employed on a permanent or temporary basis. With respect to employees who are not currently members of the retirement system, the District shall provide a brief explanation of why such employee is not required to be enrolled.

005.02 The list required by this regulation shall be filed with the NPERS on or before February 15th of each year in such format as NPERS shall establish. NPERS may require the District to submit the list on electronic media.

005.03 The provisions of regulations 005.01 and 005.02 shall not apply if the District is utilizing the Nebraska Employees Information System (NEIS), its successor system, or a computerized personnel database to which the Nebraska Public Employees Retirement Systems has access and the ability to monitor additions and deletions of employees.



ENABLING LEGISLATION: NEB. REV. STAT. § 79-987





## CHAPTER 16 – QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO)

### **001 Scope of the Rule**

This regulation sets forth the procedures for the administration of qualified domestic relations orders under the Spousal Pension Rights Act, Chapter 42, article 11, of the Nebraska Revised Statutes. All terms used in this regulation which are defined terms in the Spousal Pension Rights Act shall have the same meaning as provided in the Spousal Pension Rights Act.

### **002 Procedure to Determine Qualified Status**

002.01 Upon receipt of a court certified or authenticated domestic relations order involving benefits under OSERS, the Administrator shall, within ten (10) business days, notify in writing the member and the alternate payee that the Administrator has received the domestic relations order. If the order pertains to a member receiving benefits from the retirement system, the Administrator shall suspend and segregate that portion of the member's benefit payment which would be payable to the alternate payee under the order if it is determined to be a qualified domestic relations order.

002.02 The Administrator shall cause the domestic relations order to be reviewed by legal counsel to determine whether it meets all of the requirements to be deemed a qualified domestic relations order as set forth in the Spousal Pension Rights Act, [Internal Revenue Code § 414\(p\)](#) and this regulation. Legal counsel shall specifically determine that the order clearly specifies:

002.02(a) The name and last-known mailing address, if any, of the member;

002.02(b) The name and last-known mailing address, if any, of the alternate payee covered by the order;

002.02(c) That the order applies to OSERS;

002.02(d) The number of payments or period to which such order applies; and

002.02(e) The amount or percentage of the member's benefits to be paid by OSERS to each alternate payee or the manner in which such amount or percentage is determined.

002.02(f) The social security number and date of birth of the member, as well as the social security number and date of birth of the alternate payee shall be provided in a separate document.



002.03 Legal counsel shall ascertain that the order does not require the retirement system to:

002.03(a) Provide any type or form of benefit, or any option, not otherwise provided under the Class V School Employees Retirement Act;

002.03(b) Provide increased benefits determined on the basis of actuarial value;

002.03(c) Pay to an alternate payee benefits which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

002.03(d) Pay benefits to an alternate payee before the earliest retirement date of a member;

002.03(e) Provide a joint and survivor annuity to the alternate payee and the alternate payee's subsequent spouse; or

002.03(f) Act contrary to the statutory provisions of the Class V School Employees Retirement Act.

002.04 If legal counsel determines that the domestic relations order does not meet all of the requirements set forth in the Spousal Pension Rights Act and these regulations, the Administrator shall, within seven business days of making such determination, notify the member and the alternate payee of the basis for such determination. If the Administrator is notified in writing within thirty (30) days of the date the Administrator makes the notification required under this subsection that the member or the alternate payee is seeking an amended order correcting the deficiencies noted, the Administrator shall continue to suspend and segregate that portion of the member's benefit payment which would be payable to the alternate payee under the order if it were to be determined to be a qualified domestic relations order.

002.05 In no event shall the Administrator suspend and segregate benefits under sections 002.01 or 002.04 for a period longer than eighteen (18) months from the date the original order is filed with the Administrator or the date payments to the alternate payee would commence under the order if qualified, whichever is later. If the order or an amended order is not qualified within the eighteen month period, the Administrator shall pay the segregated funds, plus interest, to the member or other beneficiaries entitled thereto, and any order qualified after the eighteen month period will be applied prospectively only.

### **003 Distribution Procedures**

003.01 If the legal counsel determines an order is a qualified domestic relations order, then as soon as is administratively possible, the Administrator shall



allocate and distribute retirement benefits to the member and the alternate payee according to the terms of the order. Payment of the benefit to the alternate payee shall commence either on the member's retirement date or on the first day of the month immediately following the month in which the alternate payee notifies the Administrator of the election to begin payment, but not before the member's earliest retirement date.

003.02 The Administrator shall segregate the alternate payee's interest in the member's benefit into a separate account pending distribution. Unless the domestic relations order provides otherwise, the amounts allocated to the alternate payee shall be deducted from each of the member's District and employee accounts in the same percentage as the total percentage awarded to the alternate payee under the order.

003.03 The Administrator shall indicate in the member's account file the existence of the qualified domestic relations order. Upon the triggering of a distribution under the plan to the alternate payee or the member, the Administrator shall compute the alternate payee's interest in the member's accrued benefit under the order and shall reduce the member's benefit accordingly.

003.04 If the order does not specify the form of benefit to be taken by the alternate payee, the alternate payee may select any form of benefit available to the member except a joint and survivor annuity.

003.05 If the alternate payee dies prior to receiving any payment of his or her interest in the member's benefit under a qualified domestic relations order, such interest reverts to the member. If the alternate payee dies after commencement of payments of his or her interest, then the alternate payee's beneficiary is entitled to the balance of the alternate payee's interest under the payment option provided by the order or selected by the alternate payee. For purposes of this section, payment of the alternate payee's interest in the member's benefit shall be deemed to have commenced on the earlier of the member's retirement date or on the first day of the month immediately following the month in which the alternate payee notifies the Administrator of the election to begin payment, but not before the member's earliest retirement date.

#### **004 Pre-approved QDRO Language**

004.01 A member or an alternate payee, or their legal representatives, may submit a proposed domestic relations order to the Administrator for review and tentative qualification prior to the order being submitted to the court having jurisdiction over the domestic relations matter.

004.02 The Administrator shall develop and provide, upon request, model domestic relations order language that meets all of the requirements of the Spousal Pension Rights Act [and Internal Revenue Code § 414\(p\)](#).



004.03 Failure to use the model language provided pursuant to this regulation shall not be a basis for determining that the domestic relations order is not a qualified domestic relations order.

## **005 Administrative Hold on Account**

005.01 The Administrator may place an administrative hold on a member's account prohibiting such member from withdrawing the account balance upon receiving written or emailed notice from a person claiming an interest in the member's account advising the Administrator that proceedings to obtain a domestic relations order have been initiated and requesting an administrative hold on the account to protect their interest in the account.

005.02 The Administrator shall within ten (10) business days acknowledge receipt of the request for an administrative hold and shall notify the member and the person claiming an interest in the member's account of the action the Administrator will be taking in response thereto.

005.03 The Administrator shall release an administrative hold placed on the member's account if:

005.03(a) The member is awarded his or her entire benefit by the court and provides the Administrator with a certified copy of the court's order;

005.03(b) The claim is released by a notarized written statement signed by the person claiming an interest in the member's account or by his or her legal representative;

005.03(c) The Administrator receives a domestic relations order for qualification and the member's account is segregated accordingly; or,

005.03(d) The person claiming an interest in the member's account does not provide a domestic relations order to be qualified within a reasonable period of time, not to exceed six (6) months, after requesting the administrative hold. Before releasing an administrative hold pursuant to this subsection, the Administrator shall notify the person claiming an interest in the member's account, or his or her legal representative, of the intention to release the hold. The Administrator shall provide the person claiming an interest in the member's account thirty (30) days within which to file a written objection to such action. For good cause shown, the Administrator may extend the administrative hold for an additional period of time.





## **006 Notices**

006.01 Any notice required by this regulation shall be sent by first class mail, postage prepaid, to the last-known mailing addresses of the member and the alternate payee.

006.02 The member and the alternate payee may designate alternative representatives for receipt of copies of notices. Such designation of a representative must be in writing and received by the Administrator before such designation shall become effective.

ENABLING LEGISLATION: NEB. REV. STAT. §§ 42-1101.



## **CHAPTER 17 – BENEFIT OPTIONS AND DISTRIBUTION RULES**

### **001 Scope of the Rule**

This regulation sets forth the retirement benefit options available to members of OSERS. This regulation also sets forth rules to ensure compliance with Internal Revenue Code section 401(a)(9) regarding required distributions.

### **002 Definitions**

002.01 “Payments for a Certain and Continuous Annuity” means a monthly benefit payable for the life of the member. A period of time is designated by the member for five (5), or ten (10) years in duration. If the member dies prior to the end of the designated time period then a monthly benefit will continue to the member’s beneficiary until the completion of the designated period.

002.02 “Joint and Survivorship Annuity” means a monthly benefit payable for the lifetime of the member. At the member’s death, the benefit continues to the surviving annuitant at a specified rate of 50%, 75%, or 100% until the death of the surviving annuitant. The percentage is selected by the member at retirement. If the annuitant predeceases the member, the benefit ceases when the member dies.

002.03 “Pop-up Joint and Survivorship Annuity” means a monthly benefit payable for the lifetime of the member. At the member’s death, the benefit continues to the surviving annuitant at 100% until the death of the surviving annuitant. If the designated annuitant predeceases the member, the benefit pops up to the five-year certain amount until the death of the member.

002.04 “Account Balance” means all employee contributions plus earnings or interest accrued on such account less any applicable losses and fees.

002.05 “Retirement Date” means the first day of the month following the later of (a) the date a member terminates employment, or (b) the date a member's request for retirement is received on a completed retirement application provided by the retirement system.

### **003 OSERS**

003.01 Members of OSERS may elect to receive a monthly retirement benefit under one of the following options:

003.01(a) An annuity payable monthly during the remainder of the member’s life with the provision that in the event of his or her death before sixty monthly payments have been made the monthly payments will be continued as provided in this section until a total of sixty monthly payments have been made;



003.01(b) An annuity payable monthly during the remainder of the member's life with the provision that in the event of his or her death before one hundred twenty monthly payments have been made the monthly payments will be continued as provided in this section until a total of one hundred twenty monthly payments have been made;

003.01(c) A Joint and Survivorship Annuity which shall continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year in accordance with Treasury Regulation § 1.401(a)(9)-6, Q&A-2(c);

003.01(d) A Joint and Survivorship Annuity which shall continue after the death of the member so that seventy-five percent of the amount of the member's monthly benefit under this option shall be paid monthly to the (i) member's spouse until his or her death or (ii) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than nineteen years less than the attained age of the member in such calendar year until his or her death in accordance with Treasury Regulation § 1.401(a)(9)-6, Q&A-2(c);

003.01(e) A Joint and Survivorship Annuity which shall continue after the death of the member so that fifty percent of the amount of the member's monthly benefit under this option shall be paid monthly to a designated beneficiary until his or her death; or

003.01(f) A Joint and Survivorship Annuity which will continue after the death of the member to the death of the (a) member's spouse or (b) other designated beneficiary whose adjusted age in the calendar year in which the payment of the annuity commences is no more than ten years less than the attained age of the member in such calendar year but which annuity shall, upon the spouse's or designated beneficiary's death before the death of the member, be increased after such death for the remaining life of the member so that the monthly benefit equals the monthly benefit which would have been payable to the member had the member selected the normal form of the formula retirement annuity specified in section 79-9,100.

#### **004 Minimum Distribution Rules**

To the extent that provisions of the Class V School Employees Retirement Act do not impose more restrictive distribution requirements, and with respect to distributions made in calendar years beginning on or after January 1, 2002, the Administrator will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations promulgated under that section and under Chapter 4 of these Rules and Regulations.



**005 Ability to Make Retirement Option Changes**

Members of OSERS may change their retirement option selection any time prior to the effective date of the member's retirement.

**006 Death of a Member or Beneficiary**

006.01 If a member makes an eligible application for benefit payment but dies prior to their retirement date, then the member will be treated as having not made application for benefit payment. The Administrator will handle the resulting benefit payment distribution as a death benefit pursuant to the Class V School Employees Retirement Act. A member's death before the member's retirement date will be treated as a pre-retirement death, and the Administrator will distribute benefits accordingly under Class V School Employees Retirement Act.

006.02 If a beneficiary receiving a death benefit dies within a guarantee period and there are still payments remaining to be paid to the beneficiary, then a discounted lump sum shall be paid to the beneficiary's estate instead of continuing the stream of remaining annuity payments to the deceased beneficiary.

ENABLING LEGISLATION: NEB. REV. STAT. § 79-9,101.





## **CHAPTER 18 – DISABILITY CLAIMS**

### **001 Procedure**

It shall be the responsibility of the Administrator to make recommendations to the Board of Education, through its Secretary, on disposition of disability claims.

001.01 The Board of Education will review disability retirement applications in a manner consistent with Neb. Rev. Stat. § 79-9105.

001.02 The Administrator will ensure that disinterested physicians have conducted a medical examination on any member of the Retirement System that applies for disability retirement benefits. The Administrator shall present the physician's confidential report and accompanying documentation, and a recommendation on whether to approve the disability retirement application, to the Board of Education.

001.03 The Board of Education may re-evaluate any approved disability retirement application once per year from the disability retirement effective date and every 18 months thereafter unless the Board of Education wishes to reevaluate an individual's disabled status more frequently. However, the Board of Education may not require proof of disability more frequently than semiannually.

001.04 Review of disability applications shall take place in Closed Session of the Board of Education and all information reviewed by the Board of Education will be kept confidential as an employee record.

001.05 The Board of Education may accept an application for disability retirement initiated by the member, or the member's legal representative.

001.06 The certification of disability shall be made by two licensed and practicing physicians who practice in the state of Nebraska. If at the time the Member is making application for a disability retirement is located outside of Nebraska, the Board of Education may, at its sole discretion, engage the services of other licensed and practicing physicians to complete the process. The member making application for a disability retirement is responsible for the cost of the initial physician's examination. OSERS will contract with a second physician, at its expense, to get an independent evaluation of the disability evaluation of the disability application.



## **CHAPTER 19 – FUNDING POLICY**

### **001 Introduction and Background**

The Board of Education administers a pre-funded defined benefit pension plan for all full-time employees of the District. The plan is funded with fixed, statutory contributions for the employer, employee, and state of Nebraska. If the total of the statutory contribution rates is less than the actuarial contribution rate, determined in the annual actuarial valuation and based on the funding policy established by the Board of Education, upon recommendation of the actuary, the District is required to make an additional contribution to the plan to eliminate the contribution shortfall. The plan is also funded by investment earnings. Investment functions are performed by the Nebraska State Investment Officer (SIO) under the guidance of the Nebraska Investment Council (NIC).

### **002 Purpose**

The purpose of this funding policy is to state the overall funding goals, identify the benchmarks that will be used to measure progress in achieving those goals, and disclose the actuarial methods and assumptions that will be employed to develop the benchmarks. In addition, this funding policy will provide annual actuarial metrics to guide the Board of Education when considering items such as discretionary cost of living adjustments. Finally, the funding policy will include a brief list of governance responsibilities regarding the commissioning, collection, and review of actuarial information.

### **003 Periodic Review**

It is the intention of the Board of Education that this funding policy be considered a working document, reviewed periodically and, as necessary, altered in the future through formal action of the Board of Education.

### **004 Funding Goals**

The Board of Education reasserts its commitment that OSERS be fully funded through District, member and state contributions to OSERS, as well as the investment return generated from the plan assets. To demonstrate that commitment, the Board of Education establishes the following funding goals:

- 004.01 maintain an increasing ratio of assets to actuarial liabilities and reach a funded ratio of at least 100 percent;
- 004.02 maintain adequate asset levels to finance the benefits promised to members;
- 004.03 develop a pattern of stable contribution rates as a percentage of members' payroll.



004.03(a) This goal is achieved by fixed contribution rates for the State of Nebraska, Members and the District as set out in the Class V School Employees Retirement Act.

004.03(b) In order to evaluate whether the fixed contribution rates are sufficient, an Actuarial Required Contribution Rate (ARC) will be determined in the annual valuations of the System. Such valuations will be prepared in accordance with the principles of practice promulgated by the Actuarial Standards Board. The ARC will be determined as the normal cost rate plus the amortization payment on the unfunded actuarial liability, based on the amortization period set out in this funding policy. The ARC shall be determined by the actuary, engaged by the Board of Education, and contributed to the plan as required under Nebraska Revised Statutes section 79-9, 113, and any applicable other statutory requirement thereafter.

## **005 Benchmarks**

To track progress in achieving the previously outlined funding goals, the following benchmarks will be measured annually as of the actuarial valuation date (with due recognition that a single year's results may not be indicative of long-term trends):

005.01 Funded ratio – The funded ratio, defined as the actuarial value of OSERS' assets divided by OSERS' actuarial liability, should be increasing over time, before adjustments for changes in benefits, actuarial methods, and/or actuarial assumptions.

005.02 Evaluation of Fixed Contribution Rates – The intent is to fund OSERS by maintaining the fixed contribution rates required by [lawthe Class V Employees Retirement Act](#). However, the Board of Education recognizes that the ARC will fluctuate from year to year, at times significantly due to the volatility associated with investing in the financial markets. Therefore, valuation results which produce an ARC that is higher or lower than the fixed contribution rates will not automatically indicate that immediate action must be taken to change the contribution rates or benefit structure. In evaluating the need for adjustments to OSERS' funding, the longer-term trends will first be analyzed and projections performed to determine the potential long term funded status of OSERS under alternative scenarios.

005.03 Unfunded Actuarial Liability (UAL) amortization base – One amortization base shall be used in determining the amortization payment.

005.04 Unfunded Actuarial Liability (UAL) amortization period – The amortization period for OSERS' UAL was set to 30 years in 2013 and was closed so it declined by one year each year until a funded ratio of 100 percent is reached. OSERS moved to layered amortization, effective with the January 1, 2017 actuarial valuation. The existing UAL as of January 1, 2017 remained on the initial amortization period (27 years remaining at that time) and new basis that were



established as a result of assumption changes or experience gains/losses were amortized over closed 25-year periods. The amortization payment schedule for the UAL is developed using the level percent of payroll methodology.

005.05 Understanding the fiscal impact of the closed 30-year amortization period set in 2013 on the District, OSERS recognized and granted the option to implement a 30-year layered amortization schedule beginning with the January 1, 2019 valuation report to alleviate the financial pressure, yet ensure the long-term funding objective of the OSERS Transition Trustees.

005.06 The Board of Education will automatically review this policy when the funding ratio of the plan is at least 85%, with the goal of reducing the 30-year layered amortization schedule to 25-years the first valuation report following the attainment of 85% funded ratio.

005.07 If any future annual actuarial valuation indicates the plan has a negative UAL (a surplus), all existing amortization bases will be eliminated and a new base with a 30-year amortization period will be created.

## **006 Actuarial Methods and Assumptions**

006.01 Actuarial Cost Method: The actuarial cost method is the means by which the total present value of future benefits for current active and inactive members is allocated to each year of service, including past years. The individual entry-age cost method will be used.

006.02 Asset Valuation Method: The method of valuing assets is intended to recognize a "smoothed" value of assets that is market related. Asset smoothing methods reduce the effect of short-term volatility on contributions while still tracking the overall movement of the market value of assets by recognizing the effects of investment gains and losses over a period of years. The asset valuation method used to develop the actuarial value of assets first calculates the expected value of assets based on the prior year's actuarial value of assets plus net cash flow (contributions minus benefit payments for the year) increased by the assumed rate of return and then adding to the expected value of assets 25% of the difference between the actual market value of assets and the expected value of asset (whether positive or negative). In addition, the asset valuation method will utilize a corridor of 80% to 120% of the market value of assets. The impact of the corridor is that the actuarial value of assets cannot exceed 120% of the market value of assets nor be less than 80% of the market value of assets. If the initial actuarial value of assets is outside the corridor, the actuarial value of assets will be set equal to the applicable endpoint of the corridor (80% or 120% of market value).

006.03 Actuarial Assumptions: The actuarial assumptions used will be those last adopted by the Board of Education based upon the advice and recommendation of the actuary. A formal investigation into OSERS' experience shall be conducted by the actuary at least every four years and the results of the

investigation used to form the basis of the actuary's recommendations. In addition, the actual experience compared to the actuarial assumptions will be monitored each year in the annual actuarial valuation by including an analysis of the actuarial gain or loss by source.

### **007 Actuarial Audit**

The Board of Education shall have an audit of OSERS' actuarial valuation results conducted by an independent actuary periodically, but at least every ten years. The purpose of such a review is to provide a critique of the reasonableness of the actuarial methods and assumptions in use and to verify the resulting actuarially computed liabilities and contribution rates. The Board recommends an audit of the retained actuary in the year of the January 1, 2023 Valuation report, followed by every ten years thereafter.

### **008 Benefit Changes**

An actuarial cost study shall be completed before any change to the benefit structure is made.

### **009 Actuarial Projections**

The funded status of OSERS will be monitored on a regular basis, both on a snapshot basis in the actuarial valuation and on a projected basis. The Board of Education will periodically have projections of funded status performed to assess the current and expected future progress toward the overall funding goals of OSERS. The Board of Education will ensure that a five-year projection of contributions is reported in the annual ~~Valuation~~valuation report.



<b>Summary report:</b> <b>Litera® Change-Pro for Word 10.14.0.46 Document comparison done on</b> <b>1/4/2022 3:58:53 PM</b>	
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