

## **COLORADO PERA RULES**

### **STATEMENT OF BASIS AND PURPOSE**

#### **Amendments and Additions to Rules of the Public Employees' Retirement Association**

1. The heading of Rule 1 is being amended to state that Rule 1.20G is applicable to all DPS members who are not eligible to retire as of January 1, 2011. Rule 1.20G is currently inapplicable to all DPS members. This change is necessitated by S.B. 10-01, effective January 1, 2011, which changes the definition of highest average salary for DPS members who are not eligible to retire as of January 1, 2011.
2. Rule 1.20G is being amended to state that it is applicable to all DPS members who are not eligible to retire as of January 1, 2011. Rule 1.20G is currently inapplicable to all DPS members because it further interprets the definition of highest average salary under the PERA benefit structure. This change is necessitated by S.B. 10-01, which provides that effective January 1, 2011, the definition of highest average salary for DPS members who are not eligible to retire as of January 1, 2011 will change to the PERA benefit structure definition of highest average salary.
3. Rule 2.15 is being amended to reflect new employers that have affiliated with PERA. Walker Field, Colorado, Airport Authority, changed its name to Grand Junction Regional Airport Authority, and the Rule has been updated to reflect that change as well.
4. Rule 4.10 currently provides a penalty to PERA affiliated employers for failing to submit the contribution report or the contributions in a timely manner. The Rule is being amended to apply the same penalty to employers for failure to submit working retiree contributions on retirees who are hired as employees. The additional language is necessitated by S.B. 10-01, effective January 1, 2011, which requires working retiree contributions be submitted to PERA.
5. Rule 4.40A is being amended to accommodate changes that were made by S.B. 10-01, effective January 1, 2011, regarding the amount of matching employer contributions that are received upon refund. The amendment states that the amount of matching contributions are subject to Section 24-51-408(2), 24-51-408(2.5), 24-51-1103, and 24-51-1726.5, C.R.S., which are all sections that were amended by S.B. 10-01. Additionally, the Rule is being amended to state that a retiree who suspends retirement and returns to employment prior to January 1, 2011, will have a benefit recalculation instead of a refund if he or she earns more than one year of service credit. S.B. 10-01 amended the provisions regarding suspension of retirement and return to work, so a benefit recalculation will only occur if the retiree suspends retirement before January 1, 2011.
6. Rule 4.60 is being added to clarify the process for collecting the working retiree contribution for persons working as independent contractors. S.B. 10-01, effective

January 1, 2011, added the requirement that all retirees working after retirement must remit a working retiree contribution to the association. This Rule states the process for collecting the contribution from independent contractors. The process set forth in Rule 4.60 is that the employer is responsible for notifying PERA of the hiring of a PERA retiree who is performing services as an independent contractor. If the employer fails to notify PERA, then the employer is responsible for the interest due on the contribution amount from the due date to the date the contributions are received. The Rule further explains that PERA will collect the working retiree contributions on independent contractors via an offset of the retirement benefit.

7. Rule 8.30A is being added to further clarify Section 24-51-802(3), C.R.S., which allows a retiree who was not married on the effective date of retirement to elect an Option 2 or Option 3 benefit upon marriage and designate the spouse as cobeneficiary. The Rule clarifies that a retiree who makes this election and designates the new spouse cobeneficiary upon marriage may only make such election once. Further, Rule 8.30A is being added to clarify that once such an election is made, it cannot be made again even if the election is revoked within 60 days as permitted by Section 24-51-802(1), C.R.S. This Rule is necessary to prevent manipulation of the PERA system and to prevent adverse selection against the PERA trust fund.
8. Rule 8.30B is being added to clarify the timing of designating a new cobeneficiary upon marriage. Section 24-51-802(3), C.R.S., allows a retiree who was not married on the effective date of retirement to elect an Option 2 or Option 3 benefit upon marriage and designate the spouse as cobeneficiary. This statute, however, does not specify the timing of such designation. Rule 8.30B is being added to clarify that such designation must take place within 60 days of the marriage. The Rule will only apply to marriages on and after the effective date of the Rule. This Rule is being added to prevent adverse selection against the PERA trust fund.
9. The heading of Rule 10 is being amended to clarify that Rules 10.10 and 10.20A do not apply to DPS members or retirees. The heading previously stated that all of Rule 10 was inapplicable to DPS members and retirees. Due to the addition of Rule 10.20B, which is applicable to DPS members and retirees, this heading must be amended.
10. Rule 10.20 is being amended to have two subsections. The previous text is now labeled as 10.20A. Section B is being added due to S.B. 10-01, effective January 1, 2011, which amended the statutes governing the payment of the annual increase to cobeneficiaries whose benefit is based on the account of a DPS member or retiree for which the date of retirement is on or after January 1, 2011. Section 24-51-1001(1)(b), C.R.S., governing such payments, was created by S.B. 10-01, and this Rule is added to mirror Rule 10.20A, which deals with annual increases for cobeneficiaries in the PERA benefit structure. Rule 10.20B requires that the annual increase only be paid if retirement benefits have been paid on the account for the preceding 12 months and the retiree had met the requirements set forth in Section 24-51-1001(1)(b), C.R.S. If the

retiree did not meet such requirements, then the annual increase will be paid when the retiree would have met the requirements.

11. Rule 10.30 is being added to clarify the process for payment of the annual increase for post January 1, 2011, benefit recipients. Section 24-51-1002(2), C.R.S., added by S.B. 10-01, effective January 1, 2011, states that the annual increase shall be prorated in the first year that the benefit recipient is eligible to receive an annual increase pursuant to Section 24-51-1001. The statute does not specify the methodology for determining the prorated benefit, so Rule 10.30 clarifies this issue. Specifically:
  - a. Rule 10.30A states the method for determining the prorated payment.
  - b. Rule 10.30B states that when multiple benefits (i.e. a PERA benefit and a DPS benefit) are being paid, each shall be looked at separately for annual increase eligibility and in determining the amount of the prorated payment.
  - c. Rule 10.30C states that when multiple benefit segments (i.e. a retiree who is receiving multiple benefits based on suspending the retirement benefit) are being paid, in which at least one is a reduced service retirement, then the total service credit across all segments shall be used to determine eligibility for the annual increase.
12. Rule 11.10D is being added to clarify the provisions governing employment pursuant to Section 24-51-1101(1.8) (the “140 day rule”). S.B. 10-01, effective January 1, 2011, added Section 24-51-1101(1.8), which permits employers in the School Division and the DPS Division, and each state college or university, to designate up to ten retirees per calendar year that may work up to 140 days or 916 hours per calendar year without a reduction in benefits. S.B. 10-03, effective January 1, 2011, expanded these provisions to allow each principal campus of a state college or university to designate up to 10 retirees per calendar year. This Rule clarifies who is an “employer” for purposes of Section 24-51-1101(1.8), specifies how the 140 days will be calculated if the retiree is working for more than one PERA-affiliated employer, and specifies the logistics for designating the retirees that are covered under the 140 day rule.
13. Rule 11.12A is being amended to specify that working retiree contributions must be paid in accordance with the Rule and with Rule 4.60.
14. Rule 11.12D is being amended to clarify that contributions includes working retiree contributions. This amendment is necessitated by S.B. 10-01, effective January 1, 2011, which requires working retiree contributions be submitted to PERA.
15. Rule 11.12E is being amended to clarify that it also applies to working retiree contributions. This amendment is necessitated by S.B. 10-01, effective January 1, 2011, which requires working retiree contributions be submitted to PERA.

16. Rule 11.12F is being added to clarify the method for collecting the working retiree contribution from independent contractors. S.B. 10-01, effective January 1, 2011, added the requirement that all retirees working after retirement must remit a working retiree contribution to the association. This Rule states the process for collecting the contribution from independent contractors and works in conjunction with Rule 4.60.
17. Rule 11.15C is being amended to state that if a retiree has multiple benefit segments, they shall all be offset by any reduction in benefits due to working in the effective month of retirement or exceeding the working after retirement limit. S.B. 10-01, effective January 1, 2011, added provisions under which a retiree who suspends retirement on and after January 1, 2011, and subsequently earns more than one year of service credit will earn a separate benefit segment. This amendment to Rule 11.15C is necessary to clarify that the offset shall be against all benefit segments.
18. Rule 11.16B is being amended to clarify that it does not apply to retirees who suspend retirement benefits on or after January 1, 2011. S.B. 10-01, effective January 1, 2011, added provisions under which a retiree who suspends retirement on and after January 1, 2011, and subsequently earns more than one year of service credit will earn a separate benefit segment. Rule 11.16 will no longer apply because a new benefit segment will be built rather than having the benefit recalculated.
19. Rule 11.20A is being amended to clarify that it does not apply to retirees who suspend retirement benefits on or after January 1, 2011. S.B. 10-01, effective January 1, 2011, added provisions under which a retiree who suspends retirement on and after January 1, 2011, and subsequently earns more than one year of service credit will earn a separate benefit segment. Rule 11.20A will no longer apply because a new benefit segment will be built rather than having the benefit recalculated.
20. Rule 11.20B is being amended to clarify that it applies to PERA retirees who suspend retirement benefits on or after January 1, 2011. S.B. 10-01, effective January 1, 2011, added provisions under which a retiree who suspends retirement on and after January 1, 2011, and subsequently earns more than one year of service credit will earn a separate benefit segment. Rule 11.20B previously applied to DPS retirees only, and now PERA retirees will have the same provisions apply for suspensions of retirement on and after January 1, 2011.
21. Rule 12.30 is being added to clarify how the premium subsidy under the PERA Health Care Program will be calculated for retirees who have multiple benefit segments. S.B. 10-01, effective January 1, 2011, added provisions under which a retiree who suspends retirement on and after January 1, 2011, and subsequently earns more than one year of service credit will earn a separate benefit segment. The premium subsidy is determined by the amount of service credit a retiree has, so this Rule is necessary to clarify that service credit will be aggregated from all benefit segments.

# **Colorado PERA Rules**

Effective January 1, ~~2010~~2011

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## Rule 1 Definitions

Rule 1 defines certain terms used in the Rules, and further defines certain terms defined in Article 51, Title 24, C.R.S. For the purposes of Rule 1, except Rule 1.20G, which shall not apply to DPS members who are eligible to retire as of January 1, 2011~~or retirees~~, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

Unless otherwise stated, the terms and phrases contained in these rules shall have the same meaning as specified in Article 51 of Title 24, C.R.S.

### 1.20 Terms Used in Rules

Terms used in the Rules shall have the meaning specified:

- A. Foreign employer means a person or an entity that is formed under the laws of a jurisdiction outside the United States or its Territories.
- B. Pay pattern means the frequency of periodic salary payments.
  - (1) Academic pay pattern means salary is paid over a period of at least 8 months but less than 12 months.
  - (2) Seasonal pay pattern means salary is paid over a period of 1 to 11 months as determined by work available.
  - (3) Traditional pay pattern means salary is paid over a period of 12 months.
- C. Noncovered employment means public or private employment with an employer in the United States, its territories, or any foreign country for which no PERA service credit was earned. Qualified service and non-qualified service shall be determined in accordance with the Internal Revenue Code, and the Internal Revenue Service Rules and Regulations.
- D. Retroactive salary means salary for previous periods of employment for which payment was delayed or the rate of pay subsequently changed. Retroactive salary payments shall be considered earned in the months for which the salary should have been paid, had no delay or subsequent rate change occurred.
- E. Qualified Children
  - (1) Natural children means those biological children of a member who are conceived prior to the date of death of the member and are born within the normal gestation period after the date of the death of the member.
  - (2) Adopted children means those for whom a petition for adoption was filed in court prior to the date of the death of the member and such petition is diligently pursued to the entry of the final decree of adoption.
  - (3) Qualified children shall not include natural or adopted children of a member or inactive member whose parental relationship to the child has been terminated or determined by a court not to exist prior to the death of the member or inactive member.
  - (4) Qualified children shall not include natural children of a member or inactive member whose parental relationship to the child is determined by a court after the death of the member or inactive member.
  - (5) Qualified children shall include natural or adopted children of a member or inactive member who are legally adopted by another parent after the death of the member or inactive member. This subsection (5) shall not apply to qualified children eligible for benefits pursuant to the provisions of Section 24-51-1737, C.R.S.

- (6) For purposes of the DPS benefit structure, qualified children means those children who are eligible to receive survivor benefits pursuant to Section 24-51-1737, C.R.S.

F. Salary

(1) Accrued Leave Payments

- (a) Payments by an employer in satisfaction of amounts owed for accrued but unused leave, other than sick leave shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S., if the following criteria are met:
- The payment by the employer of the accrued leave is made in a lump sum at the termination of the member's employment or in periodic payments after severing employment not at the election of the member. Periodic payments must be made over consecutive pay periods and for a period not to exceed the amount of service credit awarded in association with the payment. In the event that periodic payments are made, a single benefit adjustment will be made at the end of the payment period;
  - The accrued leave payments are paid at a rate not to exceed the member's most recent rate of pay; and
  - The payment is for accrued leave earned by the member pursuant to an established employer policy or employment contract and not as a result of a retroactive grant or an award by the employer.
- (b) If each of the above criteria are met, consistent with longstanding PERA practice, the accrued leave payment will be treated as salary in calculating service credit and highest average salary for retirement by applying the payment over the number of months as determined by the member's most recent monthly rate of pay. Additional service credit for these months will be included in the retirement benefit calculation. These months may also be used in the highest average salary calculation.
- (c) Salary includes an annual lump sum payment of accrued leave, other than sick, paid because the individual has accrued in excess of the maximum accumulation allowed by the employer's established leave policy.

(2) Fringe Benefits

Salary does not include employer provided fringe benefits converted to cash payments in lieu of employer payment for the fringe benefits.

(3) Performance or Merit Payments

Performance or merit payments are payments made pursuant to a written plan or policy which are in addition to regular salary or which replace regular salary increases in recognition of sustained employee performance over the evaluation period. In order for performance or merit payments to be treated as PERA salary pursuant to 24-51-101(42), C.R.S., the Association must have determined that the following criteria have been met:

- The payment must be for performance and is made pursuant to a written plan adopted by the employer which identifies which employees are covered by the plan;
- The written plan specifies objective criteria under which employees may participate in the plan and receive payments pursuant to the plan; and
- The written plan specifies the payments to be made under the plan or the method for determining the payments made under the plan.

- (4) Contributions Under Internal Revenue Code Section 125 and 132 Salary shall not include amounts excluded from gross income under a cafeteria plan defined in Internal Revenue Code Section 125, or under a qualified transportation fringe benefit program defined in



Internal Revenue Code Section 132(f)(4), so long as such deductions are made in equal periodic deductions through the year.

- (5) Payments made by an employer for differential pay, as defined in section 414(u)(12) of the Internal Revenue Code of 1986, as amended, shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S.

G. Highest Average Salary

- (1) In calculating Highest Average Salary, the Association shall sort the three periods of twelve consecutive months of service credit in chronological order.
- (2) For a member who was a member, inactive member, or retiree on December 31, 2006, and who has an effective date of retirement on or after January 1, 2009 and has more than 36 months of earned service credit and less than 48 months of earned service credit, the Highest Average Salary shall be calculated using the highest annual salaries associated with three periods of twelve consecutive months of service credit and no annual base salary shall be used.
- (3) For a member who was not a member, inactive member or retiree on December 31, 2006, and who has more than 36 months of earned service credit and less than 48 months of earned service credit, the Highest Average Salary shall be calculated using the highest annual salaries associated with three periods of twelve consecutive months of service credit and no annual base salary shall be used.
- (4) This Rule 1.20G shall not apply to DPS members who are eligible to retire as of January 1, 2011 ~~or retirees~~.

## Rule 2: Administration

Rule 2 assigns affiliated employers to one of the five divisions, sets procedures for administrative review of Board decisions, describes the requirements for regular and special meetings of the Board of Trustees and general meetings of the Association, defines a quorum, describes the election of Board members and officers, and specifies the actuarial methods and assumptions used by the Association. Unless otherwise indicated, for the purposes of Rule 2, where applicable, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

### 2.15 Employer Assignments

C. Local Government Division

The Local Government Division shall consist of the following affiliated employers and their employees and any other entity of local government or public agency other than state that elect to affiliate with the Association:

Adams and Jefferson County Hazardous Response Authority  
Alamosa Housing Authority  
Arapahoe Park and Recreation District  
Aurora Housing Authority  
Baca Grande Water & Sanitation District  
Beulah Water Works District  
Black Hawk-Central City Sanitation District  
Blanca-Fort Garland Metropolitan District  
Boulder County

Boulder County Public Trustee's Office  
Boxelder Sanitation District  
Brush Housing Authority  
Carbon Valley Park & Recreation District  
Castle Pines Metropolitan District  
Castle Pines North Metropolitan District  
Center Housing Authority  
Central Colorado Water Conservancy District  
City of Alamosa  
City of Boulder  
City of Colorado Springs  
City of Fort Morgan  
City of Las Animas  
City of Lone Tree  
City of Manitou Springs  
City of Pueblo  
City of Wray  
City of Yuma  
Collbran Conservancy District  
Colorado District Attorneys' Council  
Colorado First Conservation District  
Colorado Health Facilities Authority  
Colorado Housing and Finance Authority  
Colorado Library Consortium  
Colorado School District Self-Insurance Pool  
Colorado Springs Utilities  
Columbine Knolls-Grove Metropolitan Recreation District  
Costilla Housing Authority  
County Technical Services  
Crown Mountain Park & Recreation District  
Cucharas Sanitation and Water District  
Cunningham Fire Protection District  
Douglas County Housing Partnership  
Douglas Public Library District  
Durango Fire and Rescue Authority  
East Cheyenne Groundwater Management District  
East Larimer County Water District  
Eaton Housing Authority  
Elbert County Library District  
Elizabeth Park and Recreation District  
[El Paso – Teller County Emergency Telephone Service Authority](#)  
[Estes Valley Fire Protection District](#)  
Estes Valley Public Library District  
Forest Lakes Metropolitan District  
Fremont Conservation District  
Fremont Sanitation District  
Garfield County Housing Authority  
[Grand Junction Regional Airport Authority](#)

Grand Valley Fire Protection District  
Green Mountain Water and Sanitation District  
GVR Metropolitan District  
Housing Authority of Arriba  
[Housing Authority of the City of Boulder](#)  
Housing Authority of the County of Adams  
Housing Authority of the Town of Limon  
Lamar Housing Authority  
Lamar Utilities Board  
Left Hand Water District  
Longmont Housing Authority  
Longs Peak Water District  
Louisville Fire Protection District  
Meeker Cemetery District  
Meeker Regional Library District  
Meeker Sanitation District  
Memorial Health System  
Montrose Fire Protection District  
Montrose Recreation District  
Monument Sanitation District  
Morgan Conservation District  
Morgan County Quality Water District  
Mountain View Fire Protection District  
Mountain Village Metropolitan District  
Mountain Water and Sanitation District  
Niwot Sanitation District  
North Carter Lake Water District  
North Chaffee County Regional Library  
Northeast Colorado Health Department  
Northeastern Colorado Association of Local Governments  
Park Center Water District  
Pine Drive Water District  
Plains Ground Water Management District  
Prowers Conservation District  
Pueblo City-County Health Department  
Pueblo Library District  
Pueblo Transit Authority  
Rampart Regional Library District  
Rangely Regional Library District  
Red Feather Mountain Library District  
Red, White & Blue Fire Protection District  
Republican River Water Conservation District  
Rifle Fire Protection District  
Rio Blanco Fire Protection District  
Rio Blanco Metropolitan Recreation & Park District  
Rio Blanco Water Conservancy District  
Routt County Conservation District  
Sable-Altura Fire Protection District

San Luis Valley Development Resources Group  
San Luis Valley Water Conservancy District  
San Miguel County Public Library District  
San Miguel Regional and Telluride Housing Authority  
Scientific and Cultural Facilities District  
Sheridan Sanitation District #1  
Soldier Canyon Filter Plant  
Steamboat II Water and Sanitation District  
St. Vrain Sanitation District  
Tabernash Meadows Water and Sanitation District  
Town of Alma  
Town of Bayfield  
Town of Crawford  
Town of Dinosaur  
Town of Eckley  
Town of Estes Park  
Town of Firestone  
Town of Lake City  
Town of Lochbuie  
Town of Mountain Village  
Town of Platteville  
Town of Rico  
Town of Rye  
Town of Seibert  
Town of Silver Plume  
Town of Timnath  
Tri-County Health Department  
Tri-Lakes Wastewater Treatment Facility  
Upper Colorado Environmental Plant Center  
Urban Renewal Authority of Pueblo  
~~Walker Field, Colorado, Public Airport Authority~~  
Washington-Yuma Counties Combined Communications Center  
Weld County Department of Public Health and Environment  
West Greeley Conservation District  
Western Rio Blanco Metropolitan Recreation and Park District  
White River Conservation District  
Windsor-Severance Library District  
Wray Housing Authority  
Yuma Housing Authority  
Y-W Well Testing Association

## **Rule 4: Contributions**

Rule 4 requires the Association to prescribe the form in which the Contribution Report is submitted, describes procedures for correction of reporting errors, determines the calculation of interest due if either is delinquent, contains provisions regarding payment of unpaid contributions, describes the use of

contributions for benefit payments and describes procedures for refunds. Unless otherwise indicated, for the purposes of Rule 4, except for Rule 4.25, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

#### **4.10 Contribution Report**

The Association shall prescribe the form in which the Contribution Report shall be submitted.

##### **A. Delinquent Reports or Contributions**

Failure by an employer to submit the Contribution Report or contributions, including working retiree contributions for employees who are also retirees of the association, as required, shall make the employer responsible for payment of the contribution amount plus interest computed on a daily rate on the contribution amount from the due date to the day that both the required report and contributions are received. However, the Association, in its sole discretion, may waive the interest so computed if only the report is delinquent and the delinquency is non-recurring.

#### **4.40 Refunds**

- A. Any member who terminates membership is entitled to a refund of the member contribution account and, subject to Section 24-51-408(2), 24-51-408(2.5), 24-51-1103, and 24-51-1726.5, C.R.S. the amount of matching employer contributions upon request, except that a retiree who returns to membership prior to January 1, 2011, and earns one year of service credit will have the benefit recalculated instead of receiving a refund. The amount available to DPS members in the event of a refund shall be governed by Section 24-51-1711 or 24-51-1729(6)(a)(I), C.R.S.
- B. No refund will be made prior to receipt of employer certification of date of termination of employment, unless membership has been terminated and no contributions have been received for a period of 90 days.
- C. No refund will be made prior to the date of termination of employment.
- D. Member contributions and interest are subject to garnishment for child support purposes as provided in 24-51-212, C.R.S., only if the membership has terminated and the member is not vested.
- E. For purposes of Section 24-51-1747, C.R.S., if a member requests a refund of two member contribution accounts, PERA shall combine the accounts and treat the refund as a refund of one member contribution account for administrative purposes.

#### **Rule 4.60 Working Retiree Contributions for Independent Contractors**

When the working retiree contribution is due on an independent contractor, the employer must notify the Association and the Association shall offset the retirement benefit of the retiree in accordance with Rule 11.12F. If the employer fails to notify the Association, and therefore the Association fails to collect the working retiree contribution via an offset of the retiree’s benefits, the employer shall be responsible for the interest due on the contribution amount from the due date to the date the contributions are received.

#### **Rule 8: Benefit Options**

Rule 8 describes the requirements for election of an option and designation of a named beneficiary or cobeneficiary. For the purposes of Rule 8, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

### **8.30 Designation of Cobeneficiary Upon Marriage**

- A. For purposes of Section 24-51-802(3), C.R.S., a retiree may only elect once to change his or her option to option 2 or 3 and designate his or her new spouse as cobeneficiary. Once such election is made, the retiree may not make such designation again even if such election is revoked within 60 days as permitted by Section 24-51-802(1), C.R.S.
- B. For purposes of Section 24-51-802(3), C.R.S., a retiree who marries on or after January 1, 2011, must elect option 2 or 3 and designate his or her new spouse as cobeneficiary within 60 days of the date of marriage. If such election is not made within 60 days, the retiree may not elect option 2 or 3 and designate his or her new spouse as cobeneficiary.

## **Rule 10: Increase In Benefits**

Rule 10 further defines eligibility for and determination of annual increases in benefits. Rules 10.10 and 10.20A shall not apply to DPS members or retirees.

### **10.20 Increase in Benefits for Cobeneficiaries**

- A. For cobeneficiaries whose benefits are based on the account of a retiree who was not a member, inactive member, or retiree on December 31, 2006, the annual increase shall be effective only if the retirement benefits have been paid on the account for the full preceding calendar year and the retiree had met the requirements in 24-51-1001(3)(b), C.R.S. If upon the death of the retiree, the retiree had not met the requirements in 24-51-1001(3)(b), C.R.S. the cobeneficiary will be eligible to receive an annual increase when the retiree would have met the requirements in 24-51-1001(3)(b), C.R.S.
- B. For cobeneficiaries whose benefit is based on the account of a DPS member or DPS retiree, or whose benefit is based on the account of a member of the PERA benefit structure who began membership on or before December 31, 2006, the annual increase shall be effective only if the retirement benefits have been paid on the account for the preceding twelve months and the retiree had met the requirements in Section 24-51-1001(1)(b), C.R.S. If upon the death of the retiree, the retiree had not met the requirements in Section 24-51-1001(1)(b), C.R.S., the cobeneficiary will be eligible to receive an annual increase when the retiree would have met the requirements in Section 24-51-1001(1)(b), C.R.S. This Rule only applies to accounts for which the effective date of retirement is on or after January 1, 2011.

### **10.30 Proration of Annual Increase for Post-January 1, 2011 Benefit Recipients**

This Rule shall only apply to post-January 1, 2011 benefit recipients whose benefit is based on the account of a DPS member or DPS retiree or whose benefit is based on an account of a member of the PERA benefit structure who began membership on or before December 31, 2006.

- A. When the benefit recipient receives his or her first annual increase after becoming eligible for the annual increase pursuant to Part 10 of the PERA statutes, in addition to receiving the applicable compounded annual increase percentage in July, the benefit recipient shall also receive:
  - (1) A one-time payment that is not compounded on the base benefit or retirement allowance, whichever is applicable, recognizing the period between the month in which the benefit recipient first became eligible for the annual increase to July of the year in which he or she receives his or her first annual increase. The amount of the one-time payment shall be the

amount of the annual increase percentage paid in July multiplied by the base benefit or the retirement allowance, whichever is applicable, multiplied by the number of months the benefit recipient has been eligible for the annual increase.

(2) Upon re-retirement under sections 24-51-1103(1.5) or 24-51-1726.5, C.R.S., whichever is applicable, each benefit segment is eligible for the one-time payment as described in subsection (1) above.

B. For benefit recipients receiving multiple benefits, excluding benefit recipients who receive multiple benefit segments pursuant to sections 24-51-1103(1.5) or 24-51-1726.5, C.R.S., whichever is applicable, each benefit shall be looked at separately when determining eligibility for the annual increase and in determining the amount of the one-time payment as described in paragraph A. (1) above.

C. For benefit recipients receiving multiple benefit segments pursuant to sections 24-51-1103(1.5) or 24-51-1726.5, C.R.S., whichever is applicable, in which at least one or more is a reduced service retirement benefit, the total service credit across all benefit segments will be used in determining eligibility for the annual increase.

## **Rule 11: Employment After Retirement**

Rule 11 describes conditions under which retirees may be employed with and without a reduction or suspension of benefits, describes the conditions under which employer contributions must be paid on retirees performing services after retirement for a PERA employer and describes the conditions for recalculation of benefits upon termination of employment after retirement. Unless otherwise indicated, for the purposes of Rule 11, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

### **11.10 Employment After Service Retirement**

A retiree receiving a service retirement or reduced service retirement benefit may be employed, under certain conditions, without reduction in benefits.

A. Employment with an Affiliated Employer

(1) For a service retiree employed in a position subject to limits on employment after service retirement, employment of more than four hours per day shall be considered one day.

(2) Employment after service retirement shall include all of the time during which a retiree renders any paid service.

B. Employment with a Non-Affiliated Employer A retiree receiving a service retirement or reduced service retirement benefit may be employed with a non-affiliated employer without a reduction in or suspension of benefits.

C. Employment of Benefit Recipients Other Than Retirees Cobeneficiaries and survivors are not subject to employment limitations.

D. Employment Pursuant to Section 24-51-1101(1.8), C.R.S.

(1) For purposes of Section 24-51-1101(1.8), C.R.S., an “employer” is defined to be an entire school district and the charter schools of the district. Charter schools are not separate employers for purposes of Section 24-51-1101(1.8), C.R.S.

(2) A service retiree who is working for an employer pursuant to Section 24-51-1101(1.8), C.R.S., may also work for one or more employers during the calendar year. Once the service retiree reaches one hundred ten days or seven hundred twenty hours in a calendar year,

whichever is applicable, the retiree may only work the remaining thirty days or one hundred ninety six hours, without a reduction in benefits, for the employer that designated that service retiree pursuant to Section 24-51-1101(1.8), C.R.S. Any employment with another employer will subject the retiree to a reduction in benefits pursuant to Section 24-51-1102, C.R.S.

(3) For purposes of Section 24-51-1101(1.8), on January 1 of each year, the employer must provide the Association with a list of any and all service retirees employed by the employer. The list must be updated with each service retiree who is hired that year.

(4) For purposes of Section 24-51-1101(1.8), C.R.S., an employer is not required to designate all ten service retirees at the beginning of each year. However, once ten service retirees have been designated during a calendar year, no additional service retirees may be designated even if one or more of the designated service retirees ceases work for that employer.

#### **11.12 Employer Contributions and Working Retiree Contributions on Retiree Service**

- A. A PERA employer that receives the services of a retiree, other than as a volunteer, under the conditions specified in this Rule, shall remit employer contributions to the Association in the manner specified in 24-51-401, C.R.S. and this Rule. Working retiree contributions shall also be due on such a retiree in accordance with the provisions of Rule 4.60 and paragraph (F) of this Rule. Employer contributions and working retiree contributions shall be due to the Association only if a retiree is the individual performing services for a PERA employer. Employer contributions and working retiree contributions shall not be due to the Association for a retiree if no services are provided to a PERA employer by the retiree. Employer contributions and working retiree contributions shall not be due to the Association for a retiree who provides products or goods to a PERA employer rather than services.
- B. Ownership of up to 5 percent of a publicly traded company registered on a national securities exchange by a retiree shall not constitute ownership of the company or cause the company to be an affiliated party of the retiree for purposes of 24-51-1101(2), C.R.S. Any other form or degree of ownership in an entity providing services to a PERA affiliated employer shall constitute ownership or operation of the entity for purposes of 24-51-1101(2), C.R.S.
- C. For purposes of 24-51-1101(2), C.R.S. an affiliated party shall include:
  - (1) any person who is the named beneficiary or cobeneficiary on the PERA account of the retiree,
  - (2) any person who is a relative of the retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren,
  - (3) any person who is a relative of the retiree by marriage to and including spouse, spouse's parents, step-parents, step-children, step-siblings, and spouse's siblings, and
  - (4) any person or entity with whom the retiree has an agreement to share or otherwise profit from the performance of services for a PERA employer by the retiree other than the retiree's regular salary or compensation.
- D. When employer contributions or working retiree contributions are due to the Association as a result of services provided by a retiree, the amount of contributions shall be based on the following:
  - (1) If the services provided to a PERA employer by the retiree are the specific subject of an agreement with the PERA employer, the retiree shall disclose the amount agreed upon and the amount of employer contributions and working retiree contributions shall be based on



the amount received by the retiree as specified in the agreement which, if paid directly by a PERA employer, would constitute salary under 24-51-101(42), C.R.S.

- (2) If the services provided to a PERA employer by a retiree are not the specific subject of an agreement with the PERA employer, then the retiree shall disclose the amount of compensation received by the retiree for services the retiree is providing to the PERA employer. Retiree shall report monthly to the Association and the PERA employer the amount received for the services provided to the PERA employer and shall specify the amount of compensation received which, if paid directly by a PERA employer, would constitute salary under 24-51-101(42), C.R.S. The PERA employer shall remit employer contributions to the Association within 30 days after receipt of the retiree's disclosure.
- Working retiree contributions shall also be due in accordance with the provisions of Rule 4.60 and paragraph (F) of this Rule.
- (3) If a retiree fails to report the compensation required under subsection D.(2) then the retiree shall be responsible to pay the employer contribution required by 24-51-1101(2), C.R.S. together with interest at PERA's actuarial investment assumption rate.

E. Regular salary or compensation received by the retiree as an employee of an entity which is not owned or operated by the retiree or any affiliated party shall not be subject to employer contributions or working retiree contributions.

F. Working retiree contributions for independent contractors shall be collected via an offset of the retiree's retirement benefit to the point that the full benefit is offset. Any contributions due in excess of the amount of the retirement benefit must be paid directly to the Association within 30 days after the services are provided to the PERA employer.

#### **11.15 Reduction/Offset in Benefits**

- A. Any reduction in benefits due to working in the month of effective date of retirement or due to exceeding the working after retirement limits for an affiliated employer shall take place in the month immediately following the month such work occurs or is reported to PERA. If such benefit reduction cannot completely occur in this month, it shall be applied to future months until the amount due is recovered.
- B. For disability retirees who exceed the earnings limit for employment after disability retirement, the benefit offset shall take place in the month immediately following the month such work occurs or is reported to PERA. If such benefit offset cannot completely occur in this month, it shall be applied to future month's benefits. In no case shall the benefit offset exceed the total benefit paid on the retiree account. This paragraph (B) shall not apply to DPS disability retirees whose application was received prior to January 1, 2010.

C. For retirees who have multiple benefit segments pursuant to Section 24-51-1103 or 24-51-1726.5, C.R.S, all benefit segments shall be offset by any reduction in benefits due to working in the month of effective date of retirement or due to exceeding the working after retirement limits for an affiliated employer.

#### **11.16 Suspension of Service Retirement**

- A. A service retiree may prospectively suspend receipt of retirement benefits and return to membership. A retiree must return to membership in order to suspend receipt of retirement benefits. No retroactive suspension of benefits is allowed.
- B. If a retiree suspends receipt of retirement benefits pursuant to 24-51-1103, C.R.S., and returns to work in a different division from which he or she retired, when the retiree resumes receipt of benefits due to re-retirement, the retiree shall remain retired from the division from which he

or she originally retired. This Rule shall not apply to retirees who suspend receipt of retirement benefits on or after January 1, 2011.

#### **11.20 Termination of Employment After Retirement**

A. PERA Retirees Who Suspend Benefits Before January 1, 2011

- (1) Employment of Less Than One Year A retiree who earns less than one year of service credit, following suspension of benefits and resumption of employment in a position subject to membership, shall receive a refund of member contributions made during the period of membership together with the amount of matching employer contributions, upon resumption of benefit payments. The amount of matching contributions shall be determined based on the service credit earned during the period of suspension and the age of the retiree.
- (2) Employment of One Year or More A retiree who earns at least one year of service credit following suspension of benefits and resumption of employment in a position subject to membership shall, upon subsequent retirement, receive a recalculated benefit which reflects the additional service credit earned during the period of membership and any increase in the Highest Average Salary.

B. PERA Retirees Who Suspend Benefits on or After January 1, 2011 and DPS Retirees

- (1) Employment of Less Than One Year  
A retiree who earns less than one year of service credit, following suspension of benefits and resumption of employment in a position subject to membership, shall receive a refund of member contributions made during the period of membership, upon resumption of benefit payments.
- (2) Employment of One Year or More  
A retiree who earns at least one year of service credit following suspension of benefits and resumption of employment in a position subject to membership shall build a new benefit segment. Upon termination of employment, the retiree shall have the option to either refund the account pursuant to Section 24-51-1103 or 24-51-1711, C.R.S., whichever is applicable, or elect to receive a second benefit based upon the plan provisions that governed the retiree's initial retirement benefit. The retiree will be immediately eligible for a second benefit upon termination of employment, regardless of the retiree's age.

### **Rule 12: Health Care Program**

Rule 12 describes requirements for enrollment and payment of premiums for the Health Care Program. For the purposes of Rule 12, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

#### **12.30 Health Care Premiums for Benefit Recipients Who Have Multiple Benefit Segments**

When a retiree suspends his or her service retirement or reduced service retirement benefits and builds one or more separate benefit segments pursuant to Section 24-51-1103(1.5) or 24-51-1726.5, C.R.S., whichever is applicable, the service credit in all benefit segments shall be added together by the Association for the purposes of determining payment of premium subsidies for the Health Care Program.