

Each year, Colorado PERA has the opportunity to update the administrative regulations that guide how PERA law is applied in practice. The administrative regulations that govern PERA are called Rules. The process for updating the Rules provides for public comment on the proposed changes. The Public Hearing on PERA's proposed changes to its Rules will take place at 11:00 a.m. on November 21, 2008, during the PERA Board of Trustees Meeting held at 1301 Pennsylvania Street in Denver. If you would like to comment on these proposed Rules changes, please plan on attending the hearing on November 21. See information on attending Board meetings at [www.copera.org/PERA/about/board/meetings.stm](http://www.copera.org/PERA/about/board/meetings.stm). (The current version of PERA Rules can be located under Tools/Forms/Pubs and then click on Member/Retiree Forms and Publications.)

Proposed changes to PERA Rules are in red text below.

## 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. 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

#### E. Qualified Children

- (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.

## Rule 2: Administration

Rule 2 assigns affiliated employers to one of the four 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.

### 2.15 Employer Assignments (amendments reflect additional employer affiliations).

### 2.20 Administrative Review

#### F. Consolidation of Administrative Hearings

Upon request of either party, the Board Chair at his or her discretion may direct consolidation of administrative hearings in appropriate circumstances. The party requesting consolidation must make such request in writing no later than 30 days after a written request for administrative hearing is filed pursuant to Rule 2.20B. Within 10 days of such a request, the other party may submit a written response stating that party's position regarding consolidation.

#### G. Administrative Hearing

##### (2) Responsibilities of Panel

The Panel shall hear and consider the evidence and then shall issue written findings of fact, conclusions of law, and the decision. The Panel's decision shall constitute final administrative

~~action appealable under Colorado Rule of Civil Procedure 106(a)(4) unless either party chooses to appeal the decision to the PERA Board pursuant to subparagraph (3) below. be appealable by submitting a written request for review to the PERA Board, including all of the specific grounds for appeal. The written request must be received by the Association within 30 days after the date on which the Panel's decision is mailed.~~ Written notice of the Panel's decision shall be sent by certified mail to each person who requested the hearing or to their attorney, if represented, and to the person representing the PERA administration.

(3) Review by the Board

(a) ~~Any party may choose to appeal the Panel's decision to the PERA Board. If any party chooses to appeal, it must submit a written request for review to the PERA Board, which must be received by the Association within 30 days after the date on which the Panel's decision is mailed. If no appeal is made to the PERA Board within the 30 days, the Panel's decision shall become final administrative action at the expiration of the 30 days to appeal to the PERA Board.~~

(b) ~~If a request for review to the PERA Board is filed prior to the deadline, the PERA Board shall review the matter based on the existing evidentiary record. The Board's review of the matter shall be limited to issues of law and shall not include review of the factual findings by the Panel. The record for Board review shall include the written materials considered by the Panel. findings of fact, conclusions of law, and the Panel's decision. It also shall include the record before the Panel if designated and paid for in advance by the appealing party. If the appealing party fails to designate and pay in advance for the record, the non appealing party may do so, but shall not be required to do so.~~ The Board may permit briefs and oral argument, if requested by a party ~~at the time of appeal~~. The three Board members who served on the Panel shall not participate in the Board's review. After review, the Board shall issue a written decision affirming, reversing, or modifying the Panel's decision. Written notice of the Board's final decision shall be sent by certified mail to the parties or to their attorney, if represented, within 10 days of the date on which the written decision was made.

(4) ~~If the PERA Board reviews the Panel's decision pursuant to subsection (3) of section (G) of this Rule, the Board's decision after its review shall constitute final administrative action appealable under Colorado Rule of Civil Procedure 106(a)(4).~~

~~G. Final Board Action~~

~~(1) The Board's decision after its review shall constitute final Board action appealable under Colorado Rule of Civil Procedure 106(a)(4).~~

~~(2) Written notice of the Board's final action shall be sent by certified mail to each person who requested administrative review or to their attorney, if represented, and to the person representing the PERA administration within 10 days of the date on which the final action was taken.~~

**Rule 3: Membership**

No changes.

## 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.

### 4.50 Contributions Based on Uniformed Service

- A. A member who is reemployed and has the rights under 24-51-507, C.R.S., and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), may elect to make up his or her missed contributions for the period of uniformed service up to five years. Contributions must be made in accordance with USERRA, set forth at 38 U.S.C. § 4301, *et. seq.*
- B. Contributions made by a member pursuant to this Rule must be made during the time period starting with the date of reemployment and continuing for up to three times the length of the member's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions may only be made during this period and while the member is employed with the post-service employer.
- C. Upon PERA's receipt of the member contributions pursuant to section (A) of this Rule, the employer shall pay the employer contribution attributable to the period of time that the member paid make-up contributions. The employer shall pay interest on both the employer contributions and the member contributions at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, for the entire period of time for which make-up contributions are made through the date such contributions are fully paid to PERA. The employer shall remit the entire amount due pursuant to this section within 30 days from the date the member makes his or her make-up contributions.

## Rule 5: Service Credit

Rule 5 describes the determination and recording of earned service credit, type of purchased service credit and methods of payment for purchased service credit.

### 5.20 Purchased Service Credit

- A. Repayment of Refund  
A member may purchase all or part of a period associated with a refunded member contribution account. Service credit purchased based on all or part of a period associated with a refunded member contribution account pursuant to 24-51-503, C.R.S. is considered purchased service credit not earned service credit. *The purchase of service credit relating to a refunded member contribution account pursuant to 24-51-503, C.R.S., shall not count toward the ten year limit for purchases of service credit specified in 24-51-505(2)(c), C.R.S.*

## Rule 6: Service Retirement

Rule 6 defines service retirement eligibility, provides for cancellation of retirement applications, further defines effective date of retirement, identifies the transition from member to retiree, describes benefits payable upon the death of an applicant and describes requirements for direct payments in lieu of contributions.

### 6.15 Division From Which a Member Retires

*A retiree who had membership in multiple divisions in the month immediately preceding retirement shall be considered a retiree of the division in which the retiree has the greater salary postings in the month immediately preceding the effective date of retirement. If the retiree had the same amount of salary postings in more than one division in the month immediately preceding the effective date of*

retirement, the Association shall look to the prior month or months until there is a month that the retiree has greater salary postings from one of the divisions, and the retiree shall be considered a retiree of the division with the greater amount of salary.

### **Rule 7: Disability Benefits**

No changes

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

No changes

### **Rule 9: Survivor Benefits**

Rule 9 describes the requirements for designation of named beneficiaries, defines job incurred death, specifies the date on which survivor benefits become payable and the date on which survivor benefits terminate.

#### **9.40 Commencement of Survivor Benefits**

D. Survivor benefits payable to qualified children pursuant to Rule 1.20 E ~~(1) or (2)~~ shall become payable on the first day of the month in which the child is born or the decree of adoption is entered.

#### **9.70 Division From Which Benefits are Payable**

- A. The division in which a deceased member or inactive member had membership immediately preceding the date of death shall be the division which determines the eligibility and benefits for a survivor of that member.
- B. The survivor of a deceased member who was receiving salary from employers in multiple divisions prior to his or her date of death shall receive benefits from the division in which the deceased member had the greater salary postings in the month immediately preceding his or her death. If the deceased member had the same amount of salary postings in more than one division in the month immediately preceding death, the Association shall look to the prior month or months until there is a month that the deceased member had greater salary postings from one of the divisions, and the division with the greater amount of salary shall be the division which determines the eligibility and benefits for a survivor of that member.

### **Rule 10: Increase in Benefits**

No changes

### **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.

#### **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.

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

No changes

## **Rule 13: Life Insurance Program**

No changes

## **Rule 14: Voluntary Investment Program**

No changes

## **Rule 15: Domestic Relations Orders (DROs)**

Rule 15 requires that the standardized form be used by the parties to a domestic relations order, as well as by the court, and includes other rules for administration of domestic relations orders.

### **15.25 DRO Submission Requirements**

- A. The parties shall submit the agreement to PERA within 90 days after entry of the decree and the permanent orders regarding property distribution in a proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage. For the agreement to be valid with respect to PERA, the agreement and order shall be entered by the court upon or before entry of any decree of dissolution of marriage, decree of legal separation, or declaration of invalidity of marriage or within 90 days after entry of the decree and the permanent orders regarding property distribution in a proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage. Certified copies of the agreement and order ~~should shall be submitted to and~~ received by PERA within 90 days after entry of the order and agreement, but must be received by PERA at least 30 days before PERA shall make its first payment pursuant to the DRO.

## **Rule 16: Defined Contribution Plan**

### **16.30 Additional Choice Within Years Two Through Five**

- F. A member of the Defined Contribution Plan who elects to receive a distribution of the entire vested balance of his or her Defined Contribution Account pursuant to Rule 16.90 or a member of the Defined Benefit Plan who elects to refund his or her Member Contribution Account pursuant to Rule 4.40, and then subsequently returns to membership in the Association or in the Defined Contribution Plan before there has been a 12-month break in service shall begin with the same number of years of membership he or she had accrued prior to terminating membership for purposes of the additional choice within years two through five as provided for in 24-51-1506, C.R.S. and Rule 16.30.

### **16.65 Contributions Based on Uniformed Service**

- A. A member of the Defined Contribution Plan who is reemployed and has the rights under 24-51-507, C.R.S., and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), may elect to make up his or her missed contributions for the period of uniformed service up to five years. Contributions must be made in accordance with USERRA, set forth at 38 U.S.C. § 4301, *et. seq.*
- B. Contributions made by a member of the Defined Contribution Plan pursuant to this Rule must be made during the time period starting with the date of reemployment and continuing for up to three times the length of the member's immediate past period of uniformed service, with the repayment period not to exceed five years. Makeup contributions may only be made during this period and while the member is employed with the post-service employer.

- C. Upon PERA's receipt of the member contributions pursuant to section (A) of this Rule, the employer shall pay the employer contribution attributable to the period of time that the member paid make-up contributions. The employer shall remit the entire amount due pursuant to this section within 30 days from the date the member makes his or her make-up contributions.
- D. If the employee does not make up all of the contributions attributable to the period of service, his or her defined contribution account may be less than if he or she had done so. Even when the employee and employer make up all contributions attributable to the period of service, the employee's account may not be the same as if the employee had remained continuously employed because the employee is not permitted to experience gains or losses on the make-up contributions that occurred in his or her defined contribution account during the period of service.

#### **16.90 Distributions Upon Termination of Employment**

- E. A member of the Defined Contribution Plan who elects to receive a distribution of the entire vested balance of his or her Defined Contribution Account pursuant to this Rule and then subsequently returns to membership in the Association before there has been a 12-month break in service shall begin a new vesting schedule for future contributions.