

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 October 19, 2007, during the monthly PERA Board of Trustees Meeting held at 1300 Logan Street in Denver. If you would like to comment on these proposed Rules changes, please plan on attending the hearing on October 19. See information on attending Board meetings at 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.)

Rule 1: Definitions

Rule 1.20 F(1) is being amended to clarify how unused accrued leave payments will be credited when the individual receives a payout at termination of their employment. This amendment is a codification of PERA's existing longstanding policy.

Rule 1.20 F(3) is being added to clarify when performance or merit payments will be considered salary for PERA purposes. This addition is a codification of PERA's existing longstanding policy.

1.20 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 is made pursuant to a written plan adopted by the employer that 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.

Rule 2: Administration

Amendments to Rule 2.15 (employer assignments) are being added to reflect additional employer affiliations.

Rule 3: Membership

Rule 3.40 is being added to clarify which individuals are employees of charter schools and subject to PERA membership.

3.40 Charter School Employees

Employees of a charter school subject to membership in the Association as referenced in 22-30.5-111, C.R.S. and 22-30.5-512, C.R.S., shall include any person who performs a service common to the normal daily operation of such charter school, including but not limited to, instructional services, counseling duties, and administrative and supervisory functions.

Rule 4: Contributions

No changes.

Rule 5: Service Credit

No changes.

Rule 6: Service Retirement

No changes.

Rule 7: Disability Benefits

No changes.

Rule 8: Benefit Options

No changes.

Rule 9: Survivor Benefits

No changes.

Rule 10: Increase in Benefits

No changes.

Rule 11: Employment After Retirement

No changes.

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)

No changes.

Rule 16: Defined Contribution Plan

Rule 16.10 C. is being amended to accommodate the new retirement plan selection choice that is being given to employees who commence employment with a community college on or after January 1, 2008.

Rule 16.10 D. is being added to specify which community colleges are included in the choice legislation that gives employees the choice of the PERA Defined Contribution Plan or the PERA Defined Benefit Plan if hired on or after January 1, 2008.

Rule 16.10 G. is being amended to accommodate the new choice that is being given to employees who commence employment with a community college on or after January 1, 2008.

Rule 16.10 J. is being added to clarify what it means to have a year of membership in the PERA Defined Benefit Plan in order to determine if the member is eligible to elect to transfer to the PERA Defined Contribution Plan in years 2-5 of their membership.

Rule 16.10 K. is being added to define what the term 12-month break in membership means for purposes of Rule 16.10 J.

Rule 16.20 A. is being amended to accommodate the new retirement plan selection choice that is being given to employees who commence employment with a community college on or after January 1, 2008 and to clarify that if no election is made within 60 days of commencing employment, the employee will automatically become a member of the PERA Defined Benefit Plan.

Rule 16.20 C. is being added to specify that an employee of a community college may become a participant in the PERA 401(k) Plan upon commencement of employment.

Rule 16.20 F. is being added to specify which retirement plan the employee will be in if he or she terminates employment prior to the expiration of the 60 days from commencement of employment and no choice has been made.

Rule 16.30 B. is being amended to specify again that years of membership in the PERA Defined Benefit Plan for the purpose of the transfer to the PERA Defined Contribution Plan shall be determined in accordance with Rule 16.10 J.

Rule 16.95 E. is being amended to clarify that a state employee who is a participant in the State Defined Contribution Plan will have the choice between the PERA Defined Contribution Plan or the PERA Defined Benefit Plan if they are hired by a community college on or after January 1, 2008, and have not been in either of the two plans during the previous 12 months.

Rule 16.95 F. is being added to clarify which retirement plan a community college employee will be in if they were employed by a community college during the previous 12 months.

Rule 16.95 G. is being added to clarify which retirement plan a state employee will be in if they were employed by the state during the previous 12 months.

Rule 16.95 H. is being added to clarify which retirement plan a state employee will be in if they have not been employed by the state in the last 12 months but have been a member of the PERA Defined Contribution Plan in the last 12 months.

Rule 16.95 I. is being added to clarify which retirement plan a community college employee will be in if they have not been employed by a community college in the last 12 months but have been a member of the PERA Defined Contribution Plan in the last 12 months.

16.10 Terms

C. Commence Employment means the date the employee began actual performance of services for a **Community College** or an employer as defined in 24-52-202(5), C.R.S. and earned salary for such services regardless of when the payment occurs.

D. **Community College** refers to any Community College in the state system of community and technical colleges governed by the State Board for Colorado Community Colleges, which shall include Arapahoe Community College, Colorado Northwestern Community College, the Community College of Aurora, the Community College of Denver, Front Range Community College, Lamar Community College, Morgan Community College, Northeastern Junior College, Otero Junior College, Pikes Peak Community College, Pueblo Community College, Red Rocks Community College, Trinidad State Junior College, and the Colorado Community College System.

G. For purposes of 24-51-1502(2)(a) and 1502.5, C.R.S. reference to member of the Association includes a member of the Defined Contribution Plan.

J. For purposes of 24-51-1506(4), C.R.S., year of membership in the plan means 12 months of contributions, not necessarily consecutive, with an employer as defined in 24-52-202(5), C.R.S., or a Community College. A member's total years of membership in the Defined Benefit Plan shall be calculated by dividing the total number of months of contributions by 12. Years of membership before a 12-month break in membership shall not be includable for purposes of determining a member's years of membership after such 12-month break in membership. Each time an election is made pursuant to 24-51-1502(1) or 1503(1), C.R.S. after a 12-month break in membership, the employee shall have a new calculation for years of membership for the purposes of 24-51-1506(4), C.R.S. Years of membership with an employer other than an employer defined in 24-52-202(5), C.R.S. or a Community College shall not count towards the calculation of years of membership pursuant to 24-51-1506(4), C.R.S.

K. For purposes of Rule 16.10 J., reference to 12-month break in membership means 12 consecutive months for which no contributions are made on the member's behalf to the Defined Benefit Plan with an employer defined in 24-52-202(5), C.R.S. or a Community College.

16.20 Initial Election Period

A. Election to participate in the Defined Contribution Plan by an eligible employee pursuant to 24-51-1503(1), C.R.S. must be made in a manner approved by the Association. Such election must be received by the Association within 60 days from the date the employee commences employment. Such election becomes effective on the first valuation date following the receipt of the election form by the Association. **For an employee of an employer as defined in section 24-52-202(5), C.R.S.,** if no such election is received by the Association within 60 days from the date the employee commences employment, the employee will automatically become a member of the Association unless the employee has elected to participate in a defined contribution plan established pursuant to part 2 of article 52 of title 24 within 60 days from the date the employee commences employment. **For an employee of a Community College, if no such election is received by the Association within 60 days from the date the employee commences employment, the employee will automatically become a member of the Association.**

C. An employee pursuant to 24-51-1502.5, C.R.S., may become a participant in the PERA 401(k) Plan upon commencement of employment.

F. An employee of an employer as defined in section 24-52-202(5), C.R.S., who is hired on or after January 1, 2006, or an employee of a Community College hired on or after January 1, 2008, who terminates his or her employment for any reason prior to the expiration of the 60 days pursuant to 24-51-1502(1) or 1503(1), C.R.S., and who has not made a choice to become a participant in a retirement plan, shall be deemed to have been a member of the

Association from the date of employment to the date of termination and thereafter an inactive member of the Association.

16.30 Additional Choice Within Years Two Through Five

B. Election to become a member of the Defined Contribution Plan pursuant to 24-51-1506(4), C.R.S. must be made in writing in a manner designated by the Association. Such election becomes effective on the first date of the pay period following the date the Association receives the election form. Such election form must be received within the second to fifth year of the employee's membership in the Association in accordance with Rule 16.10 J.

16.95 Miscellaneous

E. An employee of an employer as defined in 24-52-202(5), C.R.S. who is hired on or after January 1, 2006, and who has been an active participant in a state defined contribution plan established pursuant to part 2 of article 52 of title 24 during the 12 months prior to the date that the employee commences employment shall not be eligible to become a member of the Association or a member of the Defined Contribution Plan unless the employee becomes an employee of a Community College on or after January 1, 2008.

F. An employee who is hired on or after January 1, 2008, by a Community College who was an employee of a Community College during the 12 months prior to the date that the employee commences employment, shall participate in the Plan that he or she was in based on the prior employment with a Community College in the last 12 months.

G. An employee of an employer as defined in 24-52-202(5), C.R.S. who is hired on or after January 1, 2006, and who was an employee of an employer as defined in 24-52-202(5), C.R.S. during the 12 months prior to the date that the employee commences employment shall participate in the Plan that he or she was in based on the prior employment with an employer as defined in 24-52-202(5), C.R.S. during the last 12 months.

H. An employee who commences employment with an employer as defined in 24-52-202(5), C.R.S. who has not been employed by an employer as defined in 24-52-202(5), C.R.S. in the last 12 months, but who has been a Member of the Defined Contribution Plan in the last 12 months, shall continue to be a Member of the Defined Contribution Plan upon commencement of employment with the employer as defined in 24-52-202(5).

I. An employee who commences employment with a Community College on or after January 1, 2008, who has not been employed by a Community College in the last 12 months, but who has been a Member of the Defined Contribution Plan in the last 12 months, shall continue to be a Member of the Defined Contribution Plan upon commencement of employment with the Community College.