

Retirement Board

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Memorandum

To: Retirement Liaison Officers

From: Cheryl Price, Operations Officer

Date: February 24, 2015

Re: Public Employees' Retirement System Official Policies

The Public Employees' Retirement Board has approved for notice the **adoption of new policies and the re-adoption of all previously adopted policies** of the Board in accordance with NRS 286.200(2)(b), which states:

As soon as a public employer receives a copy of the proposed rule, the public employer immediately shall cause the copy to be posted on a bulletin board or in some conspicuous place in or near its headquarters.

Please comply with this statute.

The public hearing on the revised policies will take place no earlier than 1:00 p.m. on March 18, 2015. The March meeting will be held in the PERS' Board Room, 693 West Nye Lane, Carson City. Any person wishing to testify should be in attendance at the meeting. The revised policies may be adopted at the March 18, 2015, meeting and become effective April 15, 2015.

The following pages include the proposed changes to the policies; additions are underlined and deletions have a strikethrough line.

DISABILITY RETIREMENT

ELIGIBILITY

- 286.620 8.1 A member with at least five years of service who becomes totally unable to perform his current or any comparable job for which he is qualified by his training and experience because of injury or mental or physical illness of a permanent nature, is eligible to apply for a disability retirement allowance if:
- a. The member is in the employ of a public employer at the time of application for disability retirement;
 - b. The member provides information that his disability renders him unable to perform the duties of his present position or of any other position he has held within the past year;
 - c. The member files a notarized application for disability retirement with the System prior to termination of employment with the public employer ~~unless otherwise approved by the Executive Officer~~; and
 - d. His employment will be terminated because of such disability.
- 286.620(3) 8.2 A member may apply for disability retirement even if the member is eligible for service retirement.

PROCEDURE

- 286.620(1) 8.3 The disability retirement application form shall include all of the following:
286.630(2)
- a. Selection of retirement option and designation of beneficiary, which shall include the member's notarized signature and, if married, the spouse's consent and notarized signature.
 - b. Member's authorization to release all medical data and employment documents to the System.
 - c. A personal statement by the member describing the disability, the duties which can and cannot be performed, and any benefits he is entitled to receive for disability from any other public employer.
 - d. A statement by the applicant's personal physician fully describing the applicant's health status and nature and extent of applicant's disability, and whether or not the physician believes to a reasonable medical certainty the member is disabled.
 - e. ~~An official~~ A statement from the member's public employer certifying the member's employment record, work evaluations, record of disability, and absences that have occurred because of the disability.
 - f. ~~An official~~ A statement from the applicant's immediate supervisor regarding the disability incident, effect upon the work of the member after the disability, job functions that can and cannot be performed because of the disability, and whether or not there are alternative jobs that can be performed by the member.

- 286.200 8.4 If the disability applicant is physically or mentally incapable of completing and submitting the application, the liaison officer, deputy liaison officer, spouse, registered domestic partner, or legal guardian may complete the application on the applicant's behalf with the Executive Officer's approval.
- 286.200 8.5 Unless otherwise approved by the Executive Officer for good cause shown, a disability applicant shall have 45 days after receipt by the System of any portion of the application to submit the remaining portions. Failure to comply with this requirement shall invalidate the application and cause the System to return all portions which have been filed. Further processing will only be done if and when the completed application is submitted in its entirety.
- 286.630 8.6 The Board shall designate a Medical Advisors who shall have the responsibility to:
- a. Review all medical evidence submitted.
 - b. Request further examination if, in his medical judgment, the evidence provided is inconclusive.
 - c. Make recommendations as to whether or not the applicant is totally unable to perform his current job, or any comparable job for which he is qualified by his training and experience, because of injury or mental or physical illness of a permanent nature.
 - d. Consult with the Board.
- 286.630(1) 8.7 The Board may designate medical consultants in various areas of the state in those fields deemed necessary.
- 286.630 8.8 Travel expenses which are incurred by the member in conjunction with an examination requested by the Medical Advisor(s), Board, or Staff shall be reimbursed to the member in accordance with regulations for travel for state employees as outlined in the State Administrative Manual.
- 286.630(3) 8.9 The application for disability retirement, all supporting documents, a Staff recommendation, and the Medical Advisor's recommendation shall be submitted to the Board for a final decision.
- 286.630(4) 8.10 A member may apply to the board within 45 days for one reconsideration of a decision concerning the application for a disability retirement allowance or the discontinuance of such an allowance if the member can present new evidence which was not available or the existence of which was not known or could not reasonably have been known to him at the time the matter was originally presented. Additional medical examinations and related expenses not requested by the Board shall be performed at the expense of the applicant.
- 286.620(1c) 8.11 The member is responsible for proving to the Board that his disability renders him unable to perform the duties of his present position, a comparable position for which he is qualified by his training and experience, or any other position he has held within the past year.

DISABILITY BENEFIT

- 286.634(1) 8.12 Disability retirement, if approved, becomes effective on the day immediately following the applicant's last day of employment or the day immediately following the applicant's last day of service, whichever is later.
- 286.620(5) 8.13 The beneficiary of a disability applicant shall be entitled to benefits per the option selected by the applicant effective the day immediately following the applicant's death if death intervenes between the filing of the application and approval of disability retirement.
- 286.620(5) 8.14 If a member who has applied for disability retirement dies before the disability application has been approved by the Board, the Board may consider the application posthumously.
- 286.634(2) 8.15 A member whose application for disability retirement has been approved by the Board must terminate and commence drawing benefits within 60 days after the date of approval by the Board unless he remains on sick leave for the entire period of continued employment or his service credit extends beyond that date.
- 286.620(5) 8.16 The member's beneficiary is entitled to receive an allowance upon the expiration of service credit under the option selected rather than the benefit otherwise provided for a survivor if:
- a. The member dies before employment is terminated but within 60 days after his application for disability retirement was approved by the Board; or
 - b. The application was mailed before the member's death as indicated by the postmark on the envelope in which the application was received.
- 286.620(2) 8.17 A disability retirement benefit shall be computed in the same manner as service retirement without any reduction for age.
- 286.620(2) 8.18 The disability benefit shall be reduced by the amount of any other benefit received from any source on account of the same disability if such benefit is provided or was purchased by the expenditure of money by a Nevada public employer and to the extent that the total of the unmodified benefit and the other benefit would otherwise exceed average compensation. The procedures enumerated below will apply with respect to these benefits.
- a. If the public employee is not required to terminate his or her public employment as a condition precedent to receipt of the supplemental benefit and the benefit meets the definition of contributable compensation as defined in Policy 3.1 (a through k), service credit will accrue, and the public employee is ineligible to receive the allowance provided in NRS 286.620.
 - b. If the public employee is required to terminate his or her public

employment as a condition precedent to receipt of the supplemental benefit, no additional service credit will accrue as a result of the benefit's payment, no contributions will be payable, and the System will apply the offset codified in NRS 286.620, subsection 2.

- c. Payment of any supplemental benefit, whether in a lump sum or installments, will be offset pursuant to NRS 286.620, subsection 2, taking into consideration the public employee's average compensation prior to the disabling injury, the terms under which the supplemental benefit is paid, and the provisions of Chapter 286 of NRS.
- d. This policy does not supersede or nullify any provision in Chapter 286 of NRS, or in these policies.

286.620(4) 8.19 Each child of a deceased disabled retired employee is entitled to receive the benefits provided by Policy 9.5 only if, at the time of demise, the decedent had not reached the age and completed the service required to be eligible for an unreduced service retirement allowance, except that these benefits must not be paid to anyone who is named as a beneficiary under one of the options to an unmodified allowance.

286.640(2) 8.20 A member whose application for disability retirement is denied or canceled may:

- a. Elect service retirement if otherwise eligible. If the disability retirement application is denied and such election is made, the effective date of the service retirement will be the date the disability retirement would have gone into effect if it had been approved.
- b. Elect service retirement reduced for age.
- c. Apply for a refund of contributions.
- d. Delay his monthly retirement benefit until fully eligible for service retirement.

286.640 8.21 If the disability retirement is canceled, the effective date of the regular retirement shall be the day of receipt of the request for service retirement.

286.575-286.579 8.22 Disabled retired employees shall receive post-retirement increases in the same manner as provided to regular retired employees.

286.620(6) 8.23 A disability allowance shall be terminated or converted to a beneficiary allowance, depending on the option selected, as of the first day of the month following the death of a disabled retired employee.

RESTRICTIONS ON DISABILITY RETIREMENT

286.637(1) 8.24 Annually, a disabled retired employee must file a copy of his income tax return and any W2 statements for the preceding calendar year by May 1 of the succeeding year, or a statement of employment and earnings on a form prescribed by the Board, or the benefit will be suspended.

286.200

- 286.637(2) 8.25 The Board may adopt regulations to require medical examinations at the expense of the System.
- 286.637 8.26 The requirement for an annual physical examination may be waived upon proper certification from the Board's medical advisor that the member will remain permanently and totally unable to perform the assigned or a comparable job.
- 286.637 8.27 The monthly disability retirement benefit shall be suspended if a disabled retired employee who has been notified to submit a medical examination report fails to submit such a report to the System prior to the recertification date established by the Board.
- 286.637 8.28 Annual medical examinations in excess of \$1,000 must be certified to the System in advance by the disabled retired employee and physician and approved by the Executive Officer prior to examination, or they may be performed at the expense of the disabled retired employee.
- 286.637 8.29 The System shall not be obligated to pay for medical examination or expense which does not identify or relate to the area of disability or which involves medical treatment.
- 286.200 8.30 A disabled retired employee shall continue to be considered a disabled retired employee by the System after attainment of the equivalent of service retirement eligibility.

REEMPLOYMENT OF A DISABILITY RETIREE

- 286.650(2) 8.31 A disabled retired employee must apply for and receive Board approval before returning to any type of employment, either public or private, or the benefit shall be suspended. The application must include:
- a. A full description of the proposed employment; ~~and~~
 - b. A statement written by the member declaring the reason why the proposed employment should not be found to conflict with his disability; ~~and~~
 - c. A physician's report approving the proposed employment.
- 8.32 The Board will not review more than 3 reemployment requests per month per member.
- 286.650 8.3~~2~~³ The Board will not approve employment of a disabled retired employee ~~if: in a position which would normally be eligible for membership in the System or in (a) a position is found to be comparable to the position from which the disabled retired employee was found to be disabled. the member was found to be disabled and/or (b) the job duties include physical demands that conflict with the disability.~~ if: in a position which would normally be eligible for membership in the System or in (a) a position is found to be comparable to the position from which the disabled retired employee was found to be disabled. the member was found to be disabled and/or (b) the job duties include physical demands that conflict with the disability.
- 286.650(1) 8.3~~3~~⁴ Whenever a disabled retired employee returns to employment with a participating public employer in a position which would entitle membership:

- a. The disability retirement allowance shall be canceled.
- b. He shall again become a contributing member of the System.
- c. All previous service credit shall be restored.
- d. Employee contributions, less 15% of the total of the disability benefits paid, shall be returned to the member's account.

- 286.640(2) 8.345 A disabled retired employee whose allowance is canceled may either apply for a refund of unused contributions and/or mandatory employer-pay contributions, defer the monthly benefit until eligible for service retirement, or elect service retirement. The effective date of the service retirement, if elected, will be the date the request is received in the System's office.
- 286.200 8.356 A disabled retired employee, if otherwise eligible, may elect to change from a disability retirement to a service retirement effective upon the date the written request is received in the System's office.
- 286.655 8.367 The Board may make direct payments to a public employer for the rehabilitation of a member eligible to receive a disability retirement allowance. These payments, up to but not exceeding the disability retirement allowance, are payable at the request of the member in lieu of the disability retirement allowance. Retirement contributions shall not be made on employment of a disabled retired employee.
- 286.510 8.378 A police officer or firefighter who has at least 5 years of service as a police officer or firefighter and is otherwise eligible to apply for disability retirement because of an injury arising out of and in the course of his employment remains eligible for retirement if:
- a. He applies to the Board for disability retirement and the Board approves his application;
 - b. In lieu of a disability retirement allowance, he accepts another position with the public employer with which he was employed when he became disabled as soon as practicable but not later than 90 days after the Board approves his application for disability retirement;
 - c. He remains continuously employed by the public employer until he becomes eligible for service retirement; and
 - d. After he accepts a position pursuant to paragraph (b), his contributions are paid at the rate that is actuarially determined for police officers and firefighters until he becomes eligible for retirement pursuant to this and the policies governing service retirement.
- 286.510 8.389 If a police officer or firefighter who accepted another position with the public employer with which he was employed when he became disabled under Policy 8.37 ceases to work for that public employer before becoming eligible to retire under service retirement eligibility provisions, he may begin to receive a disability retirement allowance without further approval by the Board by notifying the Board on a form prescribed by the Board.

- 286.470(1) 10.10 (a) The unmodified allowance for a County Commissioner, Councilman, or Mayor shall be calculated upon the average compensation and service factor for that service. Except as authorized in NRS 286.470(3) and Policy 10.10(b), if there is also service in a regular position, that unmodified allowance shall be calculated separately and then combined with the County Commissioner, Councilman, or Mayor unmodified allowance.
- (b) If a member who has service as a County Commissioner, Councilman or Mayor has an average salary for the entire period of elective service that is equal to or greater than the average salary of a member for regular service for the same period, the calculations required pursuant to NRS 286.470(3) and Policy 10.10(a) do not apply and the member must receive credit for regular service.
- (c) To be eligible for the calculation in accordance with NRS 286.470(3) and Policy 10.10(b), the average salary of a member for regular service is as follows:

Fiscal Year	Average Salary
1971*	\$ 9,000
1972*	\$ 9,500
1973*	\$ 9,750
1974	\$10,241
1975	\$10,962
1976	\$11,001
1977*	\$11,587
1978	\$12,174
1979	\$13,118
1980	\$14,062
1981*	\$15,940
1982	\$17,819
1983	\$18,974
1984	\$20,129
1985*	\$21,084
1986	\$22,039
1987*	\$23,103
1988	\$24,168
1989	\$25,004
1990	\$26,186
1991	\$27,650
1992	\$28,931
1993	\$30,383
1994	\$30,511
1995	\$31,190
1996	\$31,420
1997	\$32,149
1998	\$32,714
1999	\$33,397
2000	\$35,185
2001	\$36,615
2002	\$38,106

2003	\$39,193
2004	\$40,069
2005	\$40,901
2006	\$41,929
2007	\$43,355
2008	\$46,159
2009	\$48,151
2010	\$49,407
2011	\$49,248
2012	\$48,808
2013	\$48,626
2014	\$48,057

*Estimated actuarial valuations not performed in odd-numbered years prior to 1988.

CODE SECTION 415 LIMIT

- Policy 12.41 Solely for purposes of this Article, the term “System” shall mean the Public Employees’ Retirement System and the term “member” shall include a member of the foregoing.
- 286.537 12.42 The defined benefit payable to a member of the System shall not exceed the applicable limits under [section 415\(b\) of the Internal Revenue Code \(IRC\) 415\(b\)](#), as periodically adjusted by the Secretary of the Treasury pursuant to ~~IRC Internal Revenue Code section~~ 415(d). The limitation year is the calendar year. This limit shall apply to a member who has had a severance from employment or, if earlier, an annuity starting date. Benefits that are subject to ~~IRC Internal Revenue Code section~~ 415(b) shall comply with the foregoing limit in each year during which payments are made. The foregoing limit shall be adjusted pursuant to the requirements of ~~IRC Internal Revenue Code section~~ 415(b)(2)(C) and (D) relating to the commencement of benefits at a date prior to age 62 or after age 65, subject to other applicable rules under ~~IRC Internal Revenue Code section~~ 415. No adjustment shall be required to a benefit subject to an automatic benefit increase feature described in Treasury Regulation section 1.415(b)-1(c)(5). To the extent that ~~IRC Internal Revenue Code section~~ 415 and the Treasury Regulations thereunder require that an interest rate under ~~IRC Internal Revenue Code section~~ 417(e) apply, the applicable lookback month shall be the calendar month preceding the current month and the applicable stability period is one calendar month.

The total annual additions allocated to a member for any limitation year shall not exceed the applicable limits under IRC 415(c), as periodically adjusted by the Secretary of the Treasury pursuant to IRC 415(d). To the extent that a definition of “compensation” under IRC 415 is required in order to apply the limits under IRC 415(c) and the Treasury Regulations thereunder to benefits subject to such limits, the term “compensation” shall be defined in accordance with IRC 415(c)(3) and Treasury

Regulation section 1.415(c)-2(d)(4), including, to the extent provided by paragraph (e)(3)(i) of Treasury Regulation section 1.415(c)-2, payments described in paragraph (e)(3)(ii) thereof. Effective for years beginning after December 31, 2008, for purposes of this section, “compensation” shall include differential wage payments described in IRC 3401(h). In the event that a member participates in another defined contribution plan of the member’s employer, as determined pursuant to IRC 414(b), 415(c), and 415, that is a tax-qualified defined contribution plan, contributions or allocations that would otherwise be made on behalf of the member to the other plan shall first be reduced to the extent necessary to avoid exceeding the limitations of this Policy.

- Policy 12.43 If a member is, or has ever been, a participant in another qualified defined benefit plan (without regard to whether the plan has been terminated) maintained by the member’s employer, as determined pursuant to Internal Revenue Code sections 414(b), 415(c), and 415, the sum of the member’s benefits payable annually in the form of a straight life annuity from all such plans may not exceed the limit described in item (1) above. Where the member’s employer-provided benefits under all such defined benefit plans (determined as of the same age) would exceed the limit described in (1) above applicable at that age, the benefits accrued under all such other plans shall be reduced first in order to avoid exceeding the limit and shall be reduced under the System only to the extent that the reduction under such other plans is insufficient to avoid exceeding the limit.

MINIMUM REQUIRED DISTRIBUTIONS

- Policy 12.44 For purposes of this Article, the term “System” shall mean the Public Employees’ Retirement System.
- 286.533 12.45 Pursuant to Treasury Regulations under section 401(a)(9) of the Internal Revenue Code (IRC), notwithstanding any provision of the System to the contrary, the System shall comply with IRC 401(a)(9), including the minimum distribution incidental benefits rule of IRC 401(a)(9)(G), pursuant to a reasonable and good faith interpretation of IRS 401(a)(9).

ELIGIBLE ROLLOVER DISTRIBUTIONS

- Policy 12.46 Notwithstanding any provisions of the System to the contrary, any “eligible rollover distribution” (within the meaning of section 402(c)(4) of the Internal Revenue Code (IRC)) may be rolled over to an “eligible retirement plan.” The election and rollover of an “eligible rollover distribution” shall be effected in a manner consistent with IRC 401(a)(31) and applicable Treasury Regulations.
- a. For purposes of this section, an “eligible retirement plan” is an individual retirement account described in IRC 408(a), an individual retirement annuity described in IRC 408(b), an annuity plan described in IRC 403(a), a qualified trust described in IRC 401(a), an annuity contract described in IRC 403(b), or an eligible

plan under IRC 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, that accepts a distributee's eligible rollover distribution. Effective for distributions after December 31, 2007, the term "eligible retirement plan" shall also mean a Roth individual retirement account as described in IRC 408A. The general definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC 414(p).

- b. For purposes of this section, an "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under IRC 401(a)(9); the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); any other distribution(s) that is reasonably expected to total less than \$200 during a year; and any distribution on account of hardship.

A portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in IRC 408(a) or IRC 408(b) or to a qualified trust which is part of a defined contribution plan described in IRC 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Without limiting the foregoing, for taxable years beginning after December 31, 2006, such portion may also be transferred to any type of a qualified trust (whether or not a defined contribution plan) or to an annuity contract described in IRC 403(b), if such trust or contract provides for separate accounting for amounts so transferred (including earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. Without limiting the foregoing, for distributions after December 31, 2007, such portion may also be transferred to a Roth individual retirement account as described in IRC 408A that provides for separate accounting for amounts so transferred (including earnings thereon), including separately

accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

Notwithstanding the foregoing, effective July 1, 2010, a non-spouse beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in IRC 408(a) or IRC 408(b) that is established on behalf of the beneficiary. Such rollover shall be made in a manner consistent with IRC 402(c)(11) and any other applicable guidance.

MILITARY DEATH BENEFITS

Policy 12.47 Effective for deaths occurring on or after January 1, 2007, in the case of a member who dies while performing qualified military service (as defined in section 414(u) of the Internal Revenue Code), the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the System had the member resumed and then terminated employment on account of death.