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**BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM**

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**Resolution No. 2011-09-04**

Adopting rules related to the administration of the Fund as described herein.

WHEREAS, the Indiana Public Retirement System exists to provide retirement benefits to its members, their survivors, and beneficiaries;

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the Fund;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.5-4-2](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under Indiana Code 4-22-2; and

WHEREAS, the Board of Trustees of the Indiana Public Retirement System wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Fund as described herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Retirement System that:

SECTION 1. [35 IAC 1.3](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 1.3. PUBLIC EMPLOYEES' RETIREMENT FUND—DEFINED CONTRIBUTION PROGRAM****Rule 1. General Provisions****[35 IAC 1.3-1-1](#) Administration**

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

Sec. 1. (a) The public employees' defined contribution plan, created under [IC 5-10.3-12](#) (hereinafter referred to as the plan) shall be administered by the INPRS board of trustees of the Indiana public retirement system (hereinafter referred to as the INPRS board). The plan is a component of the public employees' retirement fund under the administration of the INPRS board.

(b) The executive director of the fund shall have the same duties and authority over the plan as apply to the fund under [35 IAC 1.2-1-2](#).

(c) The INPRS board shall have the same duties and authority over the plan as apply to the fund under [35 IAC 1.2-1-3](#).

(d) Pursuant to [IC 5-10.3-12-7](#), the INPRS board shall implement this article the first day of the month that is six (6) months after the month in which the Internal Revenue Service issues an approval of the plan. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-1-1](#); adopted Sep 16, 2011: 20110928-IR-035110564ONA*)

**Rule 2. Definitions****[35 IAC 1.3-2-1](#) Definitions**

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-2-2](#); [IC 5-10.2-4-3](#); [IC 5-10.3-12](#)

Sec. 1. The definitions in [35 IAC 1.2-2-1](#) apply throughout this article, unless the term is defined in this section 1 [*this section*], or unless the context otherwise clearly requires:

(1) "Annuity savings account" or "ASA" means the annuity savings account maintained under [IC 5-10.2-2-2\(a\)\(1\)](#), as described in [IC 5-10.3-12-3](#).

(2) "Compensation", for the purposes of [IC 5-10.3-12-23](#) and this plan, means all compensation that is included as gross income as reported on the member's W-2 for covered service by a covered employer, plus the amounts stated in [IC 5-10.2-4-3](#) that are not paid directly to the member.

(3) "Employer contributions" means contributions made by the state credited to the member's employer contribution subaccount, as described in [IC 5-10.3-12-9](#) and [IC 5-10.3-12-24](#).

(4) "Member's contributions" means the member's contributions credited to the member's contribution subaccount, as described in [IC 5-10.3-12-13](#) and 5-10.3-12-23 [[IC 5-10.3-12-23](#)], which is three percent (3%) of the member's compensation under [IC 5-10.3-12-5](#).

(5) "Plan" means the public employees' defined contribution plan established under [IC 5-10.3-12](#).

(6) "Vested" or "vested portion" means the portion of the member's account which is vested as described in [IC 5-10.3-12-25](#).

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-2-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

### Rule 3. Years of Participation

#### [35 IAC 1.3-3-1](#) Years of participation

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

Sec. 1. (a) All years of participation for purposes of determining vesting under the plan are determined by [IC 5-10.3-12](#) and this article.

(b) A member's years of participation shall be credited in yearly increments, and shall not be prorated for partial years of participation credit. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-3-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

#### [35 IAC 1.3-3-2](#) Leave of absence

Authority: [IC 5-10.3-7-8](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3-7-6](#); [IC 5-10.3-12](#)

Sec. 2. (a) As used in this section, "FMLA" refers to the Family and Medical Leave Act (29 U.S.C. 2601 et seq.) and all applicable regulations and amendments.

(b) This section shall be administered in a manner consistent with the FMLA.

(c) Except as otherwise required by the FMLA, a member shall be entitled to years of participation credit for vesting purposes under the plan if a copy of the grant of the leave of absence is filed with PERF within ninety (90) days from the date the leave was authorized by the employer.

(d) If the member is compensated while on an FMLA-covered leave, the statutory contributions must be maintained. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-3-2](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

#### [35 IAC 1.3-3-3](#) Reinstatement

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3-12](#)

Sec. 3. A member whose service is involuntarily terminated and who is later reinstated as a result of a court determination and order or administrative final determination and order may be eligible for employer and employee contributions as provided in the court determination and order or administrative final determination and order. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-3-3](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

#### [35 IAC 1.3-3-4](#) Service credit for injured employees

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3-12](#)

Sec. 4. Years of participation shall be earned by a member injured during the scope of the member's employment and paid benefits under the Workmen's [sic, Workers'] Compensation Act or the state personnel. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-3-4](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

#### [35 IAC 1.3-3-5](#) Unused sick leave

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4](#)

Affected: [IC 5-10.3-12](#)

**Sec. 5. No years of participation credit shall be given after a member's last physical day at work for unused sick, vacation, or personal leave time that may or may not be paid to the member, the member's beneficiary, or estate.** (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-3-5](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#)*)

#### Rule 4. Members of the Plan

##### [35 IAC 1.3-4-1](#) Members of the plan

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

**Sec. 1. Members of the plan are determined by [IC 5-10.3-12](#) and these *[sic, this]* article.** (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-4-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#)*)

#### Rule 5. Member Accounts and Investment

##### [35 IAC 1.3-5-1](#) Member accounts

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

**Sec. 1. (a) Each member in the plan will have an account that includes the following subaccounts:**

(1) A "member contribution subaccount" as defined in [IC 5-10.3-12-13](#).

(2) A *[sic, An]* "employer contribution subaccount" as defined in [IC 5-10.3-12-9](#).

(b) To the extent a member has made rollover contributions to the plan, a "rollover account" as defined in [IC 5-10.3-12-22](#) and [IC 5-10.3-12-29](#) will be maintained on behalf of the member as a separate subaccount within the member's account.

(c) The accounts will be held and invested in the annuity savings account, subject to the provisions of [IC 5-10.3-12](#) and this title, and the plan shall be a component of the fund. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-5-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#)*)

#### Rule 6. Retirement and Disability Benefits

##### [35 IAC 1.3-6-1](#) Member distribution options

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-7](#); [IC 5-10.3-12](#)

**Sec. 1. (a) As provided under [IC 5-10.3-12-26](#), [IC 5-10.3-12-29](#), and this article, a member who terminates service in covered employment is entitled to withdraw the vested portion of the member's account as:**

(1) a lump sum;

(2) a direct rollover to an eligible retirement plan, as provided in 35 IAC Article 8 [[35 IAC 8](#)], and [35 IAC 10-1-4](#) and 10-1-5 [[35 IAC 10-1-5](#)]; or

(3) if the member has attained normal retirement age, as defined in [IC 5-10.3-12-14](#), as a monthly annuity, subject to this article.

(b) For a member electing a distribution under subsection (a)(1), the forms of monthly annuity payments that are available under the annuity savings account of the fund shall be available, pursuant to [IC 5-10.2-4-7](#), for the member's selection, provided that the amount of the member's account to be annuitized must be at least fifteen thousand *[sic]* dollars (\$15,000) in order for the annuity option to be available. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#)*)

##### [35 IAC 1.3-6-2](#) Preretirement survivor benefits

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12-27](#)

**Sec. 2. The distribution options available to the beneficiary or beneficiaries shall be as described in [IC 5-10.3-12-27\(c\)](#), and subject to the provisions of [35 IAC 1.3-6-1](#) [section 1 of this rule] with regard to member distribution options. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-2](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-3](#) Disability benefits**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12-30](#)

**Sec. 3. A member who becomes disabled while in service in a covered position and who presents proof of the member's qualification for Social Security benefits to the INPRS board is entitled to withdraw the vested portion of the member's account as described in [IC 5-10.3-12-30](#), [35 IAC 1.3-6-1](#) [section 1 of this rule], provided that a monthly annuity shall be available as a distribution option regardless of whether the member has attained normal retirement age, if the minimum monthly annuity amount rule under [35 IAC 1.3-6-1\(b\)](#) [section 1(b) of this rule] is satisfied. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-3](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-4](#) In-service for disability and survivor benefits**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 4. "In-service", for purposes of availability of account distribution under the plan, means that the member was in an employer-employee relationship as determined by the employer within established rules of the employer. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-4](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-5](#) Military service and death in service; compliance with the Uniformed Services Employment and Reemployment Rights Act and the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART)**

**Authority:** [IC 5-10.5-4-2](#); [IC 5-10.3-12-18](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 5. The provisions of [35 IAC 1.2-3-10](#) and [35 IAC 1.2-5-9.1](#), as applicable to the annuity savings account, shall apply to this plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-5](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-6](#) De minimis accounts**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-1](#)

**Sec. 6. The provisions of [35 IAC 1.2-5-12.2](#) shall apply to the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-6](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-7](#) Beneficiary designation**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 7. The provisions of [35 IAC 1.2-5-13](#), [35 IAC 1.2-5-14](#), and [35 IAC 1.2-5-15](#) shall apply to the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-7](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-8](#) Birth date; proof required**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 8. The provisions of [35 IAC 1.2-5-17](#) shall apply to the plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-8](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))**

**[35 IAC 1.3-6-9](#) Minors and other incompetent persons**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 9. The provisions of [35 IAC 1.2-5-18](#) shall apply to the plan.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-9](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**[35 IAC 1.3-6-10](#) Unclaimed ASA assets within dormant accounts**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 10. (a) Whenever a member's account has received no contributions for a period of twenty (20) years and the member is at least sixty-three (63) years of age, the fund may conduct an investigation to locate the member.**

**(b) Reasonable costs of locating the member or the member's beneficiary may be charged against the member's ASA.**

**(c) If the member or the member's beneficiary is not located after an investigation to locate the member, the monies in the member's ASA shall be credited to the fund and the fund shall retain the monies until the member or the member's beneficiary claims the monies with no further interest credits or earnings after the monies are credited to the fund.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-10](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**[35 IAC 1.3-6-11](#) Stale checks**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 11. The provisions of [35 IAC 1.2-5-23](#) shall apply to the plan.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-11](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**[35 IAC 1.3-6-12](#) Required minimum distributions**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 12. The provisions of [35 IAC 13](#), as applied to the annuity savings account, shall apply to this plan.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-6-12](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**Rule 7. Miscellaneous**

**[35 IAC 1.3-7-1](#) Deductions for health insurance and taxes; minimum amount**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 1. The provisions of [35 IAC 1.2-6-4](#) shall apply to the plan.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**[35 IAC 1.3-7-2](#) Adjustments**

**Authority:** [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.3-12](#)

**Sec. 2. The provisions of [35 IAC 1.2-6-5.5](#) shall apply to the plan.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-2](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**[35 IAC 1.3-7-3](#) Refund of contributions**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3](#)

**Sec. 3. The provisions of [35 IAC 1.2-6-6](#) shall apply to the plan.** *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-3](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))*

**[35 IAC 1.3-7-4](#) Annuity savings account contributions received by PERF subsequent to processing of retirement benefit**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-4-2](#)

Sec. 4. (a) Notwithstanding a member's election to receive an annuity provided by the amounts credited to the member's annuity savings account at retirement, annuity savings account contributions posted to a member's account subsequent to the final date on which the member's benefit is processed may be distributed to the member in a lump-sum payment.

(b) Pursuant to [IC 5-10.2-4-2\(b\)\(2\)](#), a member electing to fully or partially annuitize the member's annuity savings account in contemplation of separation from service and retirement, excluding state long-term disabilities, will have the entire amount in the member's annuity savings account moved into a fixed value account. Once the annuity savings account is moved into a fixed value account in contemplation of retirement, the election cannot be changed. In addition, any annuity savings account contributions posted to a member's account subsequent to the final date on which the member's benefit is processed shall be held in a fixed value account, until such time as that amount is distributed to the member. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-4](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

#### [35 IAC 1.3-7-5](#) Direct deposit of benefits

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

Sec. 5. The provisions of [35 IAC 1.2-6-9](#) shall apply to this plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-5](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

#### [35 IAC 1.3-7-6](#) Withholding of payments

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

Sec. 6. The provisions of [35 IAC 1.2-6-10](#) shall apply to this plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-7-6](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

### Rule 8. Administrative Proceedings

#### [35 IAC 1.3-8-1](#) Administrative orders; proceedings; reviews

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 4-21.5](#); [IC 5-10.3-12](#)

Sec. 1. All administrative orders, proceedings, and reviews shall be made pursuant to [IC 4-21.5](#) and [35 IAC 1.2-7](#). (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-8-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

### Rule 9. Annual Compensation Limit

#### [35 IAC 1.3-9-1](#) Annual compensation limit

Authority: [IC 5-10.3-12-18](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-12](#)

Sec. 1. The provisions of [35 IAC 12](#), as applied to the annuity savings account, shall apply to this plan. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.3-9-1](#); adopted Sep 16, 2011: [20110928-IR-035110564ONA](#))

DATED: September 16, 2011  
Kendall W. Cochran,  
Chairman of the Board of Trustees  
Indiana Public Retirement System

Resolution adopted by 7 affirmative, 0 negative votes.

Posted: 09/28/2011 by Legislative Services Agency

