

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 5-10.3-2-1; IC 5-10.3-12

Sec. 1. (a) Members of the plan are determined by IC 5-10.3-12 and this article.

(b) Eligible members must elect membership in the plan defined in IC 5-10.3-12 within the first sixty (60) days of their

employment, or the member will be defaulted to membership in PERF as defined within IC 5-10.3-2-1. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-4-1; adopted Sep 16, 2011: 20110928-IR-035110564ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

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 5-10.2-3-10; 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) 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. Unless a member with a rollover account as defined within IC 5-10.2-3-10 rolls over the account into a rollover account under this rule, and as defined within IC 5-10.3-12, rollovers are to be maintained in separate subaccounts.

(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; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

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 5-10.2-3-10; 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)(3), 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 dollars (\$15,000) in order for the annuity option to be available. Amounts in a member's rollover account established under IC 5-10.2-3-10 or IC 5-10.3-12-29 may be rolled into the amount in the member's ASA account to meet the threshold amount described in this section. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-6-1; adopted Sep 16, 2011: 20110928-IR-035110564ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

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 5-10.3-12-25; IC 5-10.3-12-30

Sec. 3. (a) 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.

(b) Nonvested amounts at the time of the initial disability distribution are not forfeited under IC 5-10.3-12-25(e) at the time of the disability distribution. Except as provided in 35 IAC 1.3-6-3.1(c) [section 3.1(c) of this rule], the disability retirement benefit shall be recalculated once the member is no longer receiving state disability payments so long as the member remains otherwise eligible for such disability retirement benefits. For example, Ann has two (2) years of service and goes on state long-term disability leave. Ann received a disability onset date by the Social Security Administration that coincides with the date she began receiving state long-term disability benefits. Ann may receive forty percent (40%) of the amounts in her ASA. Ann continues to receive state long-term disability benefits for two and a half (2 1/2) more years and terminates state employment. Ann may now receive one hundred percent (100%) of vested amounts in her ASA including the residual amounts not paid to her when she first applied for disability and any contributions and earnings since that time. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-6-3; adopted Sep 16, 2011: 20110928-IR-035110564ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

35 IAC 1.3-6-3.1 Disability benefits effect of return to work or reemployment

Authority: IC 5-10.3-12-18; IC 5-10.5-4-2

Affected: IC 5-10.3-12-25; IC 5-10.3-12-30

Sec. 3.1. (a) If a member of the plan separates from employment with the state and later returns to state employment in a position covered by the plan, the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section IC 5-10.3-12-25(e) or these rules may not be restored to the member's account.

(b) When a disabled member of the plan receiving a disability annuity under IC 5-10.3-12-30 and these rules returns to active duty state employment in a position covered by the plan, the member is entitled to continue receiving the disability annuity and the member is entitled to receive credit for the member's years of participation in the plan before the member's separation. However, any amounts forfeited by the member under section IC 5-10.3-12-25(e) or these rules may not be restored to the member's account.

(c) If a member receiving state long-term disability benefits returns to active duty state employment in a position covered by the plan prior to exhausting state long-term disability benefits, the member's benefit will not be recalculated upon termination of the state long-term disability benefits. No additional distribution shall be made except as otherwise provided by law and these rules. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-6-3.1; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

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. (a) "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.

(b) To be eligible to receive disability benefits, the member must be determined to be disabled by the Social Security Administration while the member was receiving salary or state long-term disability benefits, Family and Medical Leave Act leave, or exhaustion of all worker's compensation benefits. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-6-4; adopted Sep 16, 2011: 20110928-IR-035110564ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

35 IAC 1.3-6-4.1 State long-term disability benefits

Authority: IC 5-10.3-12-18; IC 5-10.5-4-2

Affected: IC 5-10-8-7; IC 5-10.3-12

Sec. 4.1. "State long-term disability benefits" means any benefits paid to a member who is a state employee under a disability plan established under IC 5-10-8-7. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-6-4.1; adopted Dec 14, 2012: 20121226-IR-035120663ONA)*

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 payment of the first annuity check shall be held in an account valued at the PERF Money Market rate, until such time as that amount is distributed to the member. If the member cancels the retirement process, the member's account will be moved into the Money Market Fund until a new election is made by the member.

(c) Pursuant to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who:

(1) terminates service in a covered position; and

(2) does not perform any service in a position covered by the fund for at least thirty (30) days after the date on which the member terminates service;

is entitled to withdraw amounts in the member's account to the extent the member is vested in the account. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-7-4; adopted Sep 16, 2011: 20110928-IR-035110564ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA*)

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*)

Rule 10. Assumptions

35 IAC 1.3-10-1 Actuarial rules

Authority: IC 5-10.3-12-18; IC 5-10.5-4-2

Affected: IC 5-10.3

Sec. 1. Two (2) forms of benefit payments are considered to be actuarially equivalent if the expected present value of future payments are the same. For PERF, the expected present value is calculated based on a seven and one-half percent (7.50%) interest rate and the 1984 Uninsured Pensioners Unisex Mortality Table (UP84) set back two (2) years. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.3-10-1; adopted Sep 14, 2012; 20120926-IR-035120542ONA)*

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