ARTICLE 1.2. PUBLIC EMPLOYEES' RETIREMENT FUND

Rule 1. General Provisions

35 IAC 1.2-1-1 Administration

Authority: IC 5-10.5-4-2
Affected: IC 5-10.1; IC 5-10.2; IC 5-10.3-2-1; IC 5-10.5-3-1

Sec. 1. The public employees' retirement fund of Indiana, created under IC 5-10.3-2-1 (hereinafter referred to as the fund or PERF) shall be administered by its board of trustees (hereinafter referred to as the board), which includes the implementation of IC 5-10.1, IC 5-10.2, and IC 5-10.3. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-1-2 Delegation of authority; powers and duties of executive director

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-2-1; IC 5-10.5-6

Sec. 2. (a) The executive director is the executive officer of the fund's affairs and operations, makes eligibility and other determinations on applications made to the board, makes periodic reports to the board, and performs all other duties assigned by the board. The executive director shall cause all applicants and other necessary persons to be notified promptly of any determinations made concerning such applications.

(b) The executive director shall have the authority to enter into agreements and sign contracts on behalf of the fund pursuant to and in accordance with procurement policies established by the board. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-2; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Jun 11, 2010: 20100728-IR-035100467ONA)*

35 IAC 1.2-1-3 General powers

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3; IC 5-10.5-4

Sec. 3. The board may employ investment managers, custodians, and investment consultants to carry out the powers and duties of the fund. The executive director may employ all necessary employees, auditors, technical experts, legal counsel, and other service providers to carry out the powers and duties of the fund. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-3; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-1-4 Normal retirement age

Authority: IC 5-10.3-3-8; IC 33-38-6-23
Affected: IC 33-38-7-11; IC 33-38-8-13

Sec. 4. For purposes of permissible in-service distributions subject to the service restrictions of IC 33-38-7-11 and IC 33-38-8-13 a member's normal retirement age is:

(1) at least sixty-two (62) years of age with at least eight (8) years of service credit; or

(2) at least fifty-five (55) years of age and the participant's age and years of service credit is at least eighty-five (85).

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-4; adopted Sep 16, 2011: 20110928-IR-035110563ONA)

35 IAC 1.2-1-5 Confidentiality of fund records administered by the Indiana public retirement system

Authority: IC 5-10.5-4-2
Affected: IC 2-3.5; IC 4-1-6; IC 5-10.2; IC 5-10.3; IC 5-10.4; IC 5-10.5-6-4; IC 29-1-8-1; IC 29-1-8-1.5; IC 29-3; IC 33-38; IC 36-8

Sec. 5. (a) This rule applies to all pension trust funds administered by INPRS.

(b) INPRS fund records of individual members and membership information are confidential, except as provided in IC 5-10.5-6-4. INPRS may in its sole discretion provide member records or membership information to members of the Indiana general assembly or their agents when such information is necessary to accomplish legal functions of such members of the general assembly, or to:

(1) state agencies pursuant to and in accordance with the Fair Information Practices Act when such information is necessary to accomplish the statutory functions of such agencies;

(2) independent bodies corporate and politic to accomplish statutory functions of such independent bodies so long as such independent bodies are contractually bound by a confidentiality agreement approved by INPRS and where in INPRS' sole discretion determines there is a necessity to provide such records;

(3) service providers who contract with INPRS so long as such service providers are contractually bound by a confidentiality agreement approved by INPRS and where in INPRS' sole discretion determines there is a necessity to provide such records;

(4) any person with express permission of the member, the member's attorney in fact, or guardian of the member established under the Indiana Probate Code;

(5) an active member's covered employer where in INPRS' sole discretion determines there is a necessity to provide such records so long as such employers are contractually bound by a confidentiality agreement approved by INPRS;

(6) the designated beneficiary or beneficiaries of a deceased member, personal representative of a deceased member with letters of *[sic]* testamentary, or to a person pursuant to an affidavit described in IC 29-1-8-1 or IC 29-1-8-1.5; however, such release of information is limited to the information required to be released by statute or is necessary to accomplish the legal functions of the personal representative or the affiant; or

(7) comply with state or federal law, subpoena, discovery pursuant to the Indiana rules of trial procedure or the Indiana Orders and Procedures Act, or other court order.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-5; adopted Feb 17, 2012: 20120222-IR-035120095ONA)

35 IAC 1.2-1-6 Interest on employees' contribution accounts administered by the Indiana public retirement system

Authority: IC 5-10.5-4-2
Affected: IC 5-10-5.5; IC 5-10.2; IC 5-10.3; IC 33-38; IC 33-39; IC 36-8

Sec. 6. (a) This rule applies to all INPRS funds that have contribution accounts.

(b) Unless otherwise provided by law or rule of the board, when crediting interest on employee contribution accounts, INPRS shall do the following:

(1) With approval of the board, set the interest rate at least annually for the contribution accounts.

(2) For active members, credit interest at least once a year on the prior fiscal year-end balance.

(3) For members separated from service, members who die before vesting, and for survivors, the amount credited to the member's contribution account shall be the value of the member's contribution account plus interest valued the day after INPRS receives the member's application for a distribution or the date of death of the member plus contributions received after that date. No contribution account shall be valued under this provision prior to the effective date of the record keeper requirements to effectuate the implementation of this provision.

(4) Cease crediting interest to accounts that have no activity after ten (10) years after the last contribution posting and which have total service credit of less than twenty (20) years.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-6; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)

35 IAC 1.2-1-7 Overpayments and underpayments to employer, PERF ASA, and contribution accounts administered by the Indiana public retirement system

Authority: IC 5-10.5-4-2
Affected: IC 5-10-5.5; IC 5-10.2; IC 5-10.3; IC 33-38; IC 33-39; IC 36-8

Sec. 7. (a) This rule applies to all INPRS funds that have contribution accounts.

(b) When there has been an overpayment of picked up member contributions or after-tax member contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(c) When there has been an underpayment of picked up member contributions or after-tax member contributions, the principal amount of the underpayment will be billed to the employer. The principal amount of the underpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(d) When there has been an overpayment of employer contributions, the principal amount of the overpayment will be credited to the employer. The principal amount of the overpayment may be adjusted for earnings/interest at the interest rate defined in subsection (e).

(e) When there has been an underpayment of the employer contribution, the principal amount of the underpayment will be billed to the employer. The principal amount may be adjusted for earnings/interest at the interest rate defined in subsection (f) to begin accruing seven (7) days after the pay period end date of the original wage and contribution report.

(f) For purposes of this section, the interest rate shall be determined by the executive director and shall not exceed the assumed rate of return set by the board. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-1-7; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

Rule 2. Definitions

35 IAC 1.2-2-1 Definitions

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-2-1; IC 5-10.3-7; IC 5-10.5

Sec. 1. The following definitions apply throughout this title, unless the context otherwise clearly requires:

(1) "After the member's retirement", for purposes of IC 5-10.2-4-8(b), means when a member separates from employment.

(2) "Annuity savings account" or "ASA" consists of the member's contributions whether paid by the member or picked up by the employer, additional annuity contributions, and interest credits on these contributions.

(3) "Board" means the board of trustees of the public employees' retirement fund of Indiana.

(4) "Ceases service", for purposes of IC 5-10.2-4-3(e) only, means when a member stops earning creditable service.

(5) "Contribution accounts" means accounts holding employee contributions other than those to the annuity savings account.

(6) "De minimis account" or "de minimis amount" means an inactive, retired, retired for disability, suspended, or deceased member's ASA account whereby no regular and continuing contributions are being received and the account has a balance of which the value is less than the actual cost of making a distribution of the balance to the member or the member's beneficiary.

(7) "De minimis overpayment" means an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account which received an overpayment totaling no more than ten dollars ($10).

(8) "Employer" means the state for employees of the state and a participating political subdivision for its employees.

(9) "Employer contributions" means contributions made by the state and political subdivisions to the retirement allowance account.

(10) "ERM" means the employer reporting and maintenance system, a web-enabled software application that manages employer and member data and collects members' wages and contributions.

(11) "Full-time employee" means an employee occupying a position covered by the fund as set out in IC 5-10.3-7.

(12) "Fund" means the public employees' retirement fund of Indiana.

(13) "Gender and number" means the masculine gender shall include the feminine, and the singular the plural as the context may require.

(14) "Governing body" means the county council, city council, trustees of a town, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of a political subdivision,

which department receives revenue independently of, or in addition to, funds obtained from taxation.

(15) "Indiana pension administration system" or "INPAS" means the defined benefit system, a software application that manages employer and member data and calculates member retirement, disability, and survivor benefits.

(16) "INPRS" means the Indiana public retirement system established under IC 5-10.5-2-1.

(17) "Member" means persons qualifying for membership under IC 5-10.3-7-1.

(18) "Member's contribution" means contribution which each member shall, as a condition of employment, contribute to the fund, which is three percent (3%) of the member's compensation (basic salary as defined in 35 IAC 1.2-5-5), and which includes contributions paid by the employer for the member pursuant to IC 5-10.2-3-2 and IC 5-10.3-7-9, and additional annuity contributions.

(19) "PERF" means the public employees' retirement fund.

(20) "Political subdivision" means a county, city, town, township, political body corporate, public school corporation, public library, public utility of a county, city, town, township, and any department of, or associated with, a county, city, town or township, which department receives revenue independently of, or in addition to, funds obtained from taxation.

(21) "Record keeper" means a third party service provider that provides bookkeeping services for INPRS members' individual ASA investment trading transactions and individual accounts, including daily valuations of accounts.

(22) "Retirement allowance account" consists of employer contributions for pensions and separate accounts shall be maintained for contributions by the state and by each political subdivision.

(23) "Vested status" means the status of having ten (10) years of creditable service.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-2-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1078; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Jun 11, 2010: 20100728-IR-035100467ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA; adopted Dec 17, 2010: 20101229-IR-035100777ONA; adopted Feb 17, 2012: 20120222-IR-035120095ONA; adopted Jun 29, 2012: 20120718-IR-035120397ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA)

Rule 3. Creditable Service

35 IAC 1.2-3-1 Creditable service

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.3

Sec. 1. All creditable service is determined by IC 5-10.2-3 and these rules *[this article]*. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1079; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-2 Reemployment after termination of employment; suspension of membership; withdrawal of contributions

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3-5; IC 5-10.2-3-6; IC 5-10.3-7-6

Sec. 2. (a) A member's suspension, after termination of employment and withdrawal of contributions or by operation of IC 5-10.2-3-5 shall be cancelled and the individual's prior service shall qualify as creditable service, if the individual is reemployed in a PERF or TRF-covered position for a period of not less than six (6) consecutive months; however, if the employee shows to the satisfaction of the fund that there was bona fide intent to return to employment and comply with this rule and the employee was capable of performing such employment, but was prevented from working the full six (6) month period due to illness, injury, death of the employee, or other reason which occurred subsequent to the date of the reemployment, then such six (6) month requirement may be waived. Time spent on an employer approved leave of absence granted under the Family Medical Leave Act (FMLA) or pursuant to IC 5-10.3-7-6 taken during the reemployment period shall be used in determining whether the employee met the requirements of this section provided that the member returned to covered employment immediately after termination of such leave.

(b) Whenever a member is suspended pursuant to IC 5-10.2-3-5(c), the fund shall conduct an investigation to locate the

member.

(c) Reasonable costs of locating the member may be charged against the member's ASA.

(d) Pursuant to IC 5-10.2-3-6(d), whenever a valid address can be determined for the member, the fund shall automatically make a lump sum distribution to the member from the member's ASA not to exceed one thousand dollars ($1,000).

(e) Prior to the distribution, the Fund shall serve the member with any required notices, as well as notice to the member explaining the reason for the distribution.

(f) Pursuant to IC 5-10.2-3-6(b), if the member is not located or does not claim his monies, or both, within five (5) years after suspension, the monies shall be credited to the fund and the fund shall retain the monies until the member or the member's beneficiary claims them 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 1.2-3-2; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1079; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Nov 21, 2008: 20090107-IR-035080955ONA; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-3-3 School employees

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-6-1; IC 20-31-9-4; IC 20-31-9.5-7

Sec. 3. (a) A member who is employed in a PERF covered position by a school corporation, state school, university, school city or town, or school corporation shall receive one (1) year of service credit if employed during the full regular school term or contract period for that member's position. Nothing less than full compliance with this rule will give such year of creditable service.

(b) Pursuant to IC 20-31-9.5-7, special management teams established under IC 20-31-9-4 may enroll employees of the special management teams who are not licensed as teachers by the Indiana state board of education or the Indiana professional licensing agency in PERF by adopting a resolution described in IC 5-10.3-6-1. Required contributions must be made to the fund.

(c) Pursuant to IC 20-25.5-4-4(c) *[IC 20-25.5 was repealed by P.L.214-2015, SECTION 1, effective July 1, 2015.]*, the innovation network school established under IC 20-25.5-4 *[IC 20-25.5 was repealed by P.L.214-2015, SECTION 1, effective July 1, 2015.]* may enroll employees of the innovation network school who are not licensed as teachers by the Indiana state board of education or the Indiana professional licensing agency in PERF by adopting a resolution described in IC 5-10.3-6-1. Required contributions must be made to the fund. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-3; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1079; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Jun 29, 2012: 20120718-IR-035120397ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-3-4 Full service credit

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 4. (a) Except as otherwise specifically required by law, for all service credit calculations performed on or after January 1, 2007, service credit shall be granted in quarterly increments, with a member entitled to one (1) quarter of creditable service for each calendar quarter in which the member is employed at least one (1) full day in a full-time, PERF-covered position, and for which employer contributions have been made. Notwithstanding any provision to the contrary, service credit shall not be granted for any period of employment if such grant of service credit would result in a member receiving more than one (1) month of service credit for the same calendar month.

(b) A member's first and last quarter of PERF-covered employment, notwithstanding subsection (a), for those quarters in which a member commenced or completed employment in a PERF-covered position, service shall be granted in monthly increments, with a member entitled to one (1) month of creditable service for each month in which the member was employed at least one (1) full day in a full-time, PERF-covered position, and for which employer contributions have been made.

(c) Notwithstanding subsections (a) and (b), once PERF implements ERM, all service credit calculations shall be granted in monthly increments, with a member entitled to one (1) month of creditable service for each calendar month in which the member is employed at least one (1) full day in a full-time, PERF-covered position, and for which employer contributions are made.

Notwithstanding any provision to the contrary, service credit shall not be granted for any period of employment if such grant of service credit would result in a member receiving more than one (1) month of service credit for the same calendar month.

(d) This rule applies only to members earning service credit through their employment in PERF-covered positions, and does not apply to members of the other retirement funds administered by PERF. Such funds shall continue to perform service credit calculations in the manner such calculations were performed as of December 1, 2006, unless subsequently amended by law. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-4; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1079; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Oct 20, 2006: 20061101-IR-035060500ONA; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA)*

35 IAC 1.2-3-5 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

Sec. 5. (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) A member shall receive service credit for the period of time during which the member is granted a leave of absence under IC 5-10.3-7-6 and for which applicable employer contributions have been made as follows:

(1) Except as otherwise required by the FMLA, the credit shall be allowed 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. No leave granted retroactively by the employer will be considered as creditable service. Furthermore, except as otherwise required by the FMLA or other federal or state laws that specifically require the granting of service credit for authorized unpaid leaves of absence, service credit shall not be granted for any unpaid leaves of absence taken on or after January 1, 2007, if employer contributions are not made for such periods of leave.

(2) A leave of absence will be treated as creditable service only if the member returns to employment for a period of not less than six (6) consecutive months; however, if the member shows to the satisfaction of the fund that there was a bona fide intent to return to employment and comply with this rule and the member was capable of performing such employment, but was prevented from working the full six (6) month period due to illness, injury, or death which occurred subsequent to the date of return to employment, then this six (6) month requirement shall be waived.

(c) This section and IC 5-10.3-7-6 shall be administered in a manner consistent with the FMLA.

(d) If the member is compensated while on an FMLA-covered leave, the statutory contributions must be maintained. A member may make contributions as provided in IC 5-10.3-7-6(b) during an unpaid FMLA leave, although such contributions shall not result in service credit for benefit purposes unless employer contributions are made for such period of leave. The member's employer is not required to make contributions with respect to an unpaid FMLA leave; however, if employer contributions are not made, the member shall be entitled only to the eligibility service required by the FMLA.

(e) In calculating credit for vesting and eligibility purposes, time spent on an FMLA protected leave shall be counted, including any time spent receiving disability benefits while on such leave.

(f) A member seeking credit for an FMLA leave must provide documentary evidence demonstrating that the statutory requirements have been satisfied.

(g) Unless otherwise provided by law, a leave of absence is not a separation from service. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-5; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1079; filed May 7, 1998, 4:15 p.m.: 21 IR 3326; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Oct 20, 2006: 20061101-IR-035060500ONA; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA)*

35 IAC 1.2-3-6 Reinstatement

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 6. 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 PERF credit if proper supporting documents are filed

with PERF and approved by the board or the executive director and employer contributions are made. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-6; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-7 Service credit for injured employees

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 7. Creditable service shall be earned by a member injured during the scope of his employment and paid benefits under the Workmen's Compensation Act or the State Personnel Act; however, no service credit will be used that is earned during the period of time during which PERF disability benefits were paid in the calculation of the PERF disability benefit. However, unless otherwise prohibited by law, such service shall be used to determine retirement benefits if the member becomes eligible for normal retirement. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-7; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA)*

35 IAC 1.2-3-8 Unused sick leave

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 8. No creditable service shall be given after a member's last physical day at work for unused sick 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 1.2-3-8; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; filed Mar 1, 2000, 7:48 a.m.: 23 IR 1606; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-9 Optional service

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 9. Employees of participating school corporations who occupy PERF covered positions normally requiring performance of service of less than one thousand (1,000), but more than six hundred (600) hours a year and who opt to become members of the fund, shall be credited only for service from the date such option was made. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-9; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-10 Military service

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-7-5

Sec. 10. In addition to the creditable service allowed by IC 5-10.3-7-5 for military service, a member is also entitled to creditable service as set forth at 38 U.S.C. 4301, et seq., the Uniformed Services Employment and Reemployment Rights Act of 1994. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-10; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-11 Comprehensive Employment Training Act (CETA)

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 11. Employees involved in the administration of Comprehensive Employment Training Act (CETA) programs may be

covered by PERF. Regular CETA employment is not such employment that may be covered by PERF. CETA employees who leave CETA employment and subsequently enter employment in a PERF-covered position shall not receive service credit for prior CETA employment, even if the position is essentially the same. The participating employer is solely responsible for classifying the member's service, and such classification is binding on the affected employee and the fund. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-11; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-12 Purchase of prior bureau of motor vehicles commission service

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3-1; IC 5-10.3-7

Sec. 12. (a) Under IC 5-10.2-3-1 and IC 5-10.3-7-2, employees of the bureau of motor vehicles commission (BMVC) are not entitled to automatic coverage or service credit prior to July 1, 1999, for service with the BMVC, because of their coverage in a retirement plan established by the BMVC. However, under IC 5-10.3-7-8, the board believes it would be reasonable to allow employees to purchase any BMVC service from the later of:

(1) January 1, 1987, the date the BMVC established its retirement plan; or

(2) the date the individual became an employee of the BMVC;

through June 30, 1999, the date the BMVC terminated its retirement plan. For purposes of this section, BMVC service does not include service in any license branch prior to becoming a BMVC employee, or service at a license branch prior to the conversion of that license branch to the BMVC. Service in a license branch that is not BMVC service shall not be eligible for service purchase under this rule nor shall it be credited to any employee without purchase.

(b) The cost to purchase such service shall be the total actuarial cost of the service. The fund shall provide the employees with information with respect to the cost of such service.

(c) The employees may purchase such service subject to the following:

(1) Any such purchase may be made via a direct cash payment, a direct rollover under IC 5-10.3-7-9.5, or a combination of both.

(2) Any direct rollover may not exceed the actual cost of such service as established by the fund.

(3) Any direct cash payment may be made in a lump sum or in installments for a period not to exceed five (5) years. Any installment shall bear interest at the actuarial interest rate effective on the date of the first installment. Any payments are subject to applicable Internal Revenue Service limits, and the fund may limit any payments in a manner necessary to comply with these limits.

(d) This section also applies to former employees of the BMVC with BMVC service who are employed in a PERF-covered position at the time they purchase such service.

(e) In no event shall any BMVC service prior to July 1, 1999, be credited under IC 5-10.3-7-7.5 because of the exclusion under IC 5-10.3-7-2(4) unless purchased in accordance with this section.

(f) The restriction contained in IC 5-10.3-7-4.5(d) does not apply to a purchase made under this section. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-12; filed Dec 11, 2000, 2:12 p.m.: 24 IR 946; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-3-13 Purchase of service

Authority: IC 5-10.5-4-2
Affected: IC 5-10.3-7

Sec. 13. (a) Eligible PERF members may purchase service under IC 5-10.3-7-4.5, IC 5-10.3-7-4.6, IC 5-10.3-7-4.8, and IC 5-10.3-7-5.

(b) The cost to purchase such service shall be the total actuarial cost of the service. The fund shall provide the eligible fund member with information with respect to the cost of such service.

(c) The eligible fund member may purchase such service subject to the following:

(1) Service may be purchased in one (1) month increments. The minimum service purchase is one (1) year for a member who

elects to purchase service through a finance agreement.

(2) Installment payments are subject to the terms of the finance agreement.

(3) Any such purchase may be made via a direct cash payment, a direct rollover as allowed by statute, or a combination of both.

(4) Any direct rollover may not exceed the actual cost of such service as established by the fund.

(5) Payment may be made in a lump sum or in annual installments for a period not to exceed five (5) years. Any installment may bear interest at the interest rate (defined within this section) effective on the date of the first installment. Any payments are subject to applicable Internal Revenue Service limits, and the fund may limit any payments in a manner necessary to comply with these limits.

(d) In the event of a payment default under the terms of the finance agreement, a partial service credit amount will be determined by PERF. The partial service credit amount will be based on the payments made as of the date of payment default and the actuarial cost of the service. The minimum amount of partial service credit will be one (1) month. Partial service will be credited in monthly increments. The fund member is not eligible to make service purchase payments after the date of the payment default.

(e) A partial service credit will be determined by PERF if the service purchase is not completed. The minimum amount of partial service credit will be one (1) month. Service will be credited in monthly increments based on the total payments and the actuarial cost of the service. Payments for a service purchase may not be made after the date of a payment default or the date of separation of employment.

(f) Any interest rate used will be set as determined by PERF. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-13; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA)*

35 IAC 1.2-3-14 Omitted or missing employer contribution rate record

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-2-11; IC 5-10.3

Sec. 14. In the event that PERF is unable to verify the employer contribution rate for a specific employer for a reporting period from historical records or other means, PERF may substitute and apply the employer contribution rate of the state of Indiana for the omitted or missing rate during the period for administration of PERF business. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-14; adopted Sep 16, 2011: 20110928-IR-035110563ONA)*

35 IAC 1.2-3-15 Purchase of service for the judges' retirement system

Authority: IC 5-10.5-4-2; IC 33-38-8
Affected: IC 33-38-7

Sec. 15. (a) Eligible members of the judges' retirement system may purchase service pursuant to IC 33-38-7-18, IC 33-38-7-19, IC 33-38-8-22, IC 33-38-8-22.5, and IC 33-38-8-23.

(b) The cost to purchase such service is determined at the time the member makes the contributions for such service. The fund shall provide the eligible fund member with information with respect to the cost of such service.

(c) The eligible fund member may purchase such service subject to the following:

(1) Service may be purchased in one (1) month increments. The minimum service purchase is one (1) year for a member who elects to purchase service through installment payments.

(2) Payments are subject to the terms and conditions of a finance agreement.

(3) Any such purchase may be made via a direct cash payment, a direct rollover as allowed by statute, or a combination of both.

(4) Any direct rollover may not exceed the actual cost of such service as established by the fund.

(5) Payment may be made in a lump sum or in annual installments for a period not to exceed five (5) years. Any installment may bear interest at the actuarial assumed interest rate effective on the date of the first installment.

(6) Any payments are subject to applicable Internal Revenue Service limits, and INPRS may deny an application or may limit any payments if the purchase would exceed those limitations.

(7) In the event of a payment default under the terms of the finance agreement or the purchase is not completed, a partial service credit amount will be determined by INPRS. The partial service credit amount will be based on the payments made as of the date of payment default and the cost of the service. Partial service will be credited in monthly increments. The minimum amount of partial service credit will be one (1) month. The fund member is not eligible to make service purchase payments after the date of the payment default or the date of separation of employment.

(8) In the event any annual payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund member is not eligible to make service purchase payments after the date of the payment default.

(9) If the member does not choose periodic payments, a lump sum payment must be received within ninety (90) days of the member receiving the cost letter. In the event the lump sum payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund member is not eligible to make service purchase payments after the date of the payment default.

(10) If a lump sum payment is chosen, full payment must be received within ninety (90) days of the member receiving the cost letter or the purchase defaults and no further payments may be made.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-15; adopted Dec 13, 2013: 20131225-IR-035130565ONA)

35 IAC 1.2-3-16 Prosecuting attorneys retirement fund reemployment after withdrawal of contributions

Authority: IC 5-10.5-4-2; IC 33-39-7
Affected: IC 33-39-7-13

Sec. 16. (a) A participant of the prosecuting attorneys retirement fund who withdraws from the fund and becomes a participant again at a later date is entitled to service credit for years of service before the withdrawal if the participant pays into the fund the full amount received by the participant when the participant withdrew from the fund, plus interest. The interest is at a rate determined by the board and is calculated from the date of the withdrawal.

(b) The cost to purchase such service is determined at the time the member makes the contributions for such service. The fund shall provide the eligible fund member with information with respect to the cost of such service.

(c) The eligible participant may purchase such service subject to the following:

(1) Service may be purchased in one (1) month increments. The minimum service purchase is one (1) year for a member who elects to purchase service through installment payments.

(2) Payments are subject to the terms and conditions of a finance agreement.

(3) Any such purchase may be made via a direct cash payment, a direct rollover as allowed by statute, or a combination of both.

(4) Any direct rollover may not exceed the actual cost of such service as established by the fund.

(5) Payment may be made in a lump sum or in annual installments for a period not to exceed five (5) years. Any installment may bear interest at the actuarial assumed interest rate effective on the date of the first installment.

(6) Any payments are subject to applicable Internal Revenue Service limits, and INPRS may deny an application or may limit any payments if the purchase would exceed those limitations.

(7) In the event of a payment default under the terms of the finance agreement or the purchase is not completed, a partial service credit amount will be determined by INPRS. The partial service credit amount will be based on the payments made as of the date of payment default and the cost of the service. Partial service will be credited in monthly increments. The minimum amount of partial service credit will be one (1) month. The fund member is not eligible to make service purchase payments after the date of the payment default or the date of separation of employment.

(8) In the event any annual payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund member is not eligible to make service purchase payments after the date of the payment default.

(9) If the member does not choose periodic payments, a lump sum payment must be received within ninety (90) days of the member receiving the cost letter. In the event the lump sum payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund member is not eligible

to make service purchase payments after the date of the payment default.

(10) If a lump sum payment is chosen, full payment must be received within ninety (90) days of the member receiving the cost letter or the purchase defaults and no further payments may be made.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-16; adopted Dec 13, 2013: 20131225-IR-035130565ONA)

35 IAC 1.2-3-17 Eligibility for additional service purchase refund

Authority: IC 5-10.5-4-2
Affected: IC 5-10-5.5-7.5; IC 5-10.3-7; IC 33-38-8; IC 36-8-8-8.3; IC 36-8-8-8.8

Sec. 17. (a) This rule applies to all pension trust funds administered by INPRS and all circumstances under which a member may purchase service.

(b) A member who wishes to withdraw the service purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund, when permitted by Indiana law, satisfies the eligibility requirements necessary to receive a monthly allowance when the member is both age and service eligible for a retirement benefit. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-3-17; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

Rule 4. Members of the Fund

35 IAC 1.2-4-1 Members of the fund

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-7

Sec. 1. Members of the fund are determined by IC 5-10.3-7-1 through IC 5-10.3-7-3, inclusive, and these rules *[this article]*. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-4-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-4-2 Comprehensive Employment Training Act (CETA) administrators (Repealed)

Sec. 2. *(Repealed by Board of Trustees of the Indiana Public Retirement System; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-4-3 School bus drivers

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 3. An employee who is a school bus driver is eligible at his option to participate in PERF if:

(1) the school bus is wholly owned by the school corporation;

(2) the school board by its resolution covers the position of school bus driver; and

(3) the position normally requires the performance of service of more than six hundred (600) hours during the school term; however, if subdivisions (1) through (2) are met and the position normally requires performance of services of one thousand (1,000) hours or more, such employee shall be in PERF. For the member who makes such option, creditable service shall be granted only from the date such option was made and contributions received from the employer.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-4-3; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1080; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)

35 IAC 1.2-4-4 Students excluded

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 4. Full-time students in a post secondary or higher educational institution are not eligible for PERF if employed under a:

(1) work study program;

(2) co-op program;

(3) tuition assistance program; or

(4) general student assistance program.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-4-4; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1081; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)

35 IAC 1.2-4-5 Prosecuting attorneys and deputy prosecuting attorneys

Authority: IC 5-10.5-4-2

Affected: IC 5-10.2; IC 5-10.3

Sec. 5. (a) All prosecuting attorneys and deputy prosecuting attorneys whose compensation was paid from state or county funds prior to July 1, 1987, are entitled to service credit and deemed to be members of the fund as set forth in these rules (35 IAC 1.2) *[this article]* unless and until the auditor of Indiana and the designated county officials certify to PERF that such position normally required:

(1) less than one thousand (1,000) hours of service annually on or after July 1, 1982;

(2) between six hundred (600) hours and one thousand (1,000) hours prior to July 1, 1982, and the employee did not exercise the option to become a member of the fund; or

(3) less than six hundred (600) hours and the employee was hired before July 1, 1982.

(b) Effective July 1, 1987, prosecuting attorneys and deputies who are paid wholly or in part by state funds shall be members of PERF. All deputy prosecuting attorneys paid solely by other than state funds are eligible to be members of PERF if their positions are covered by the resolution of the governing body of the political subdivision and the other requirements for eligibility are met as set forth in these rules (35 IAC 1.2) *[this article]* and the statutes. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-4-5; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1081; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-4-6 Members of the general assembly (Expired)

Sec. 6. *(Expired under IC 4-22-2.5, effective January 1, 2002.)*

35 IAC 1.2-4-7 Prosecuting attorneys' retirement fund highest annual salary defined

Authority: IC 33-39-11; IC 5-10.5-7-5

Affected: IC 33-39-7-16

Sec. 7. (a) The highest annual salary is the sum of the highest completed consecutive four (4) quarters of salary that was paid to the participant before retirement.

(b) Notwithstanding subsection (a), once INPRS implements INPAS, the highest annual salary is the sum of the highest completed twelve (12) months of salary that was paid to the participant before retirement. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-4-7; adopted Apr 29, 2011: 20110511-IR-035110273ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Feb 17, 2012: 20120222-IR-035120095ONA)*

35 IAC 1.2-4-8 Prosecuting attorneys' retirement fund death benefit calculation

Authority: IC 5-10.5-4-2; IC 33-39-7-11

Affected: IC 33-39-7-19

Sec. 8. The death benefit payable to the surviving spouse of a member of the prosecuting attorneys' retirement fund under IC 33-39-7-19 is an annual benefit, payable in monthly installments. *(Board of Trustees of the Indiana Public Retirement System;*

35 IAC 1.2-4-8; adopted Apr 29, 2011: 20110511-IR-035110273ONA)

Rule 5. Retirement and Disability Benefits

35 IAC 1.2-5-1 Retirement options

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4; IC 5-10.3; IC 33-38-8-14

Sec. 1. (a) A member who retires or becomes eligible for a disability retirement cannot change the retirement option, nor may a member who chooses a lump sum payment under IC 5-10.2-4-2(a) change this choice, nor may the beneficiary designation on the application for benefits be changed under joint and survivorship options 30, 40, or 50, after the first day of the month that benefit payments are scheduled to begin. It is immaterial whether or not a check has been sent, received, or negotiated. (See also section 13 of this rule.) A member of the fund after June 30, 2008, may change a beneficiary designation pursuant to IC 5-10.2-4-7 or IC 5-10.2-4-7.2.

(b) Under IC 5-10.2-4-7, in the event that the increased retirement benefit under the integration with Social Security option prior to Social Security eligibility is calculated to be greater than an amount which is the actuarial equivalent of the retirement benefit under the normal guaranteed retirement benefit payable as a life annuity which ceases on the date of the member's death or, if later, the member's Social Security age of eligibility, then the increased retirement benefit shall be limited to such actuarial equivalent and there will be no retirement benefit payable after the age of Social Security eligibility. (In no event shall fewer than sixty (60) payments be made.)

(c) Under IC 33-38-8-14, a judges' retirement benefit is calculated upon the date the member applies to receive a retirement benefit. As used in IC 33-38-8-14, "applies to receive a retirement benefit" is defined as the date upon which PERF receives and accepts a member retirement application. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1081; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Nov 21, 2008: 20090107-IR-035080955ONA; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA)*

35 IAC 1.2-5-1.2 Retirement benefit commencement without employer separation

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4; IC 5-10.3; IC 5-10.4

Sec. 1.2. For retirements after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a PERF or TRF participant who:

(1) is no longer working in PERF or TRF covered service with an employer;
(2) is actively working with the same employer; and
(3) is working in a non-PERF or non-TRF covered position;

is entitled to retire from PERF or TRF and begin receiving retirement benefits if the participant is otherwise eligible for retirement and the participant is at least sixty-two (62) years of age at the time the participant applies for retirement. For example, Steve is sixty-two (62) years of age and has fifteen (15) years of PERF service as a state of Indiana employee. Steve is elected as a judge eligible for service in the judges' retirement system (JRS). Steve terminates his previous state of Indiana PERF covered employment and immediately begins serving as a judge participating in the JRS. Since Steve is age and service eligible for a PERF benefit, is at least sixty-two (62) years of age, and has terminated his PERF covered position, he is eligible to begin receiving PERF retirement benefits even though Steve did not separate from state employment. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1.2; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 1.2-5-1.3 Suspension and withdrawal of ASA without employer separation

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4; IC 5-10.3-6; IC 5-10.4

Sec. 1.3. (a) For withdrawals after the effective date of this rule, in accordance with Section 905 of the Pension Protection Act of 2006, and unless otherwise prohibited by law, a PERF or TRF participant, who is not age and service eligible for a retirement benefit, who:

(1) is no longer working in PERF or TRF covered service with an employer;

(2) is actively working with the same employer; and

(3) is working in a non-PERF or non-TRF covered position;

may suspend and withdraw the amounts in their ASA pursuant to IC 5-10.2-3-5 and IC 5-10.2-3-6 if the participant is at least sixty-two (62) years of age at the time the participant applies for the withdrawal. For example, Josh has worked in a PERF covered position for four (4) years. Josh is promoted to a non-PERF covered position with the same employer. When Josh is sixty-two (62) years of age, he may suspend and withdraw his ASA so long as he is not working in a TRF or PERF covered position.

(b) For the purposes of subsection (a)(3), non-PERF or non-TRF covered position does not include employer withdrawals or privatization of an employer under IC 5-10.3-6-8, IC 5-10.3-6-8.5, or IC 5-10.3-6-8.9. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1.3; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 1.2-5-1.4 Election, appointment to elected position, or service in other position not covered by PERF or TRF

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-8.2; IC 5-10.3; IC 5-10.4

Sec. 1.4. A PERF or TRF member who is a state elected official or who is a person appointed to a state elected position in a position not covered by PERF or TRF, and otherwise meets the criteria set forth in IC 5-10.2-4-8.2 may make an election to begin receiving PERF or TRF benefits while holding the position in accordance with and pursuant to IC 5-10.2-4-8.2. For example, Judge Smith worked as a deputy attorney general in a PERF covered position for twenty (20) years. He was elected as a superior court judge and immediately left his PERF covered position to serve as a judge and is participating in the judges' retirement system. While serving as a judge, he may make the election to begin receiving his PERF retirement benefit if he meets the requirements of IC 5-10.2-4-8.2. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-1.4; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 1.2-5-2 Disability benefits; eligibility

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-6; IC 5-10.3

Sec. 2. (a) To be eligible to receive disability benefits, the member must have at least five (5) years of creditable service before the termination of a salary or employer provided income protection benefits, Family and Medical Leave Act leave, or exhaustion of all worker's compensation benefits.

(b) Except as otherwise provided in law or these rules, the disability benefit is computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. For example, Ann has five (5) years of service credit. Ann's Social Security Administration disability onset date relates back to the end of her fourth year of service. Ann is eligible to receive disability benefits because she has at least five (5) years of creditable service, but only four (4) years of service credit is used to calculate the benefit.

(c) To be eligible to receive disability benefits, the member must be receiving salary, worker's compensation benefits, employer-provided income protection benefits, or on leave under the Family and Medical Leave Act on the date the Social Security Administration determines the member becomes disabled.

(d) For the purpose of IC 5-10.2-4-6(a), "while receiving a salary" includes the last check date for a member, but does not include any checks received later than thirty (30) days from the last day the member was paid for physical work, for used sick time, for used compensatory time, or while on other leave or vacation.

(e) A member may continue to receive PERF disability benefits so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under Social Security guidelines. However, during any such period, no service credit under PERF shall be granted.

(f) A member, including a state employee receiving state sponsored long-term disability benefits, may not receive a

distribution of their ASA until the member separates from covered service or the Social Security Administration determines that the member has become disabled and the member has applied for disability benefits.

(g) A member who is receiving a disability retirement shall be automatically converted to regular retirement benefits upon reaching age and service eligibility. Unless otherwise prohibited by law, service credit earned or awarded during the period of time the member was receiving PERF disability benefits will be used in the calculation of the retirement benefit. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-2; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; filed May 7, 1998, 4:15 p.m.: 21 IR 3326; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-5-3 Disability without Social Security eligibility (Repealed)

Sec. 3. *(Repealed by Board of Trustees of the Indiana Public Retirement System; filed May 7, 1998, 4:15 p.m.: 21 IR 3333)*

35 IAC 1.2-5-4 Disability alternatives

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 4. (a) A member who is eligible for early retirement and who has on file with the fund a copy of application to Social Security for Social Security disability benefits may file for early retirement and retain his right to disability benefits. Under such circumstances, when the member notifies the fund that he qualifies for Social Security disability benefits, early retirement benefits shall cease and disability benefits shall begin.

(b) A member who has five (5) years of creditable service and who is not eligible for early retirement and has on file with the fund a copy of a request to Social Security for a disability determination may request a lump sum withdrawal of his annuity account without prejudice to his right to disability benefits under PERF should the Social Security Administration approve the request for disability within three (3) years from the date of the member's termination from employment. If no request to Social Security for a disability determination is on file with INPRS at the time the member applies for disability, the disability application will not be approved or processed unless the member can prove, to INPRS' satisfaction, that the request for a Social Security disability determination was made prior to the annuity account distribution.

(c) A member, including a state employee receiving state sponsored long-term disability benefits, may not receive a distribution of their ASA under subsection (a) or (b) until the member separates from covered service or the Social Security Administration determines that the member has become disabled and the member has applied for disability benefits. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-4; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-5-4.1 "State long-term disability benefits" defined

Authority: IC 5-10.5-4-2
Affected: IC 5-10-8-7; IC 5-10.2-4-6

Sec. 4.1. "State long-term disability benefits" means any benefit 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 1.2-5-4.1; adopted Dec 14, 2012: 20121226-IR-035120663ONA)*

35 IAC 1.2-5-5 "Basic salary" or "compensation" defined

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-3; IC 5-10.3-7-11

Sec. 5. (a) Subject to subsections (b) and (c), "basic salary" or "compensation" 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.

(b) Compensation of not more than two thousand dollars ($2,000) pursuant to and in accordance with IC 5-10.2-4-3(e) may be used in the total annual compensation from which the average of the annual compensation is determined.

(c) "Basic salary" does not include investment incentive bonus compensation paid under an investment incentive bonus plan established by the INPRS board, and no contributions are to be paid on such compensation.

(d) A member's basic salary or annual compensation must be certified by an official of the employing unit who has knowledge of and access to the records as set forth in IC 5-10.3-7-11. A member may not certify his or her basic salary or annual compensation. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-5; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1265; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA; adopted Sep 14, 2012: 20120926-IR-035120542ONA)*

35 IAC 1.2-5-6 Reemployment (Repealed)

Sec. 6. *(Repealed by Board of Trustees of the Indiana Public Retirement System; adopted Nov 21, 2008: 20090107-IR-035080955ONA)*

35 IAC 1.2-5-7 Service for disability and survivor benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 7. "In service" means that the member was in an employer-employee relationship as determined by the employer within established rules of the employer. Benefits for disability shall be paid the first of a month following the onset of disability as determined by the Social Security Administration upon receipt and processing of the application for disability by INPRS. For example, Mary has been determined to be disabled by the Social Security Administration. Mary is receiving employer provided disability insurance payments. Mary's disability benefits will not commence until she files for a PERF disability benefit with INPRS and the application is processed. However, Mary's disability for retirement benefits will be paid back to the month following the onset of disability as determined by the Social Security Administration. In determining whether a member has achieved eligibility for disability benefits, periods of leave under the Family and Medical Leave Act (as defined in 35 IAC 1.2-3-5) and periods whereby the member was receiving salary, worker's compensation benefits, or employer-provided income protection benefits shall be included. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-7; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; filed May 7, 1998, 4:15 p.m.: 21 IR 3327; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-5-8 Combined service in teachers' and public employees' retirement funds

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 8. Creditable service in the Indiana state teachers retirement fund and PERF may be combined to meet the five (5) year eligibility requirements for disability benefits. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-8; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1082; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-9 Survivor benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3; IC 5-10.2-3-7.5

Sec. 9. (a) If the total amount of survivor benefits paid to a surviving spouse or surviving dependent does not exceed the

member's total contributions plus accumulated interest, the difference shall be paid to the surviving dependent or his estate or, in the case of a surviving spouse, the surviving spouse's estate.

(b) If an active member with more than fourteen (14), but less than fifteen (15), years of creditable service dies, the surviving spouse or dependent is entitled for a benefit if:

(1) the member dies after December 31, 2006;

(2) the member was at least sixty-five (65) years of age at the time of death;

(3) the member died in service in a PERF-covered position; and

(4) the surviving spouse or dependent qualifies for a benefit.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-9; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Feb 19, 2010: 20100310-IR-035100124ONA)

35 IAC 1.2-5-9.1 Death in service; compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART)

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 9.1. (a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent permitted by Section 414(u)(9) of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-9.1; adopted Nov 20, 2009: 20091209-IR-035090927ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA)*

35 IAC 1.2-5-10 Designated dependent beneficiary

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3-7.5; IC 5-10.2-3-7.6; IC 5-10.3

Sec. 10. If member was married for less than two (2) years at the time of his death, the surviving spouse may qualify for monthly benefits as a "designated dependent beneficiary" if the spouse can prove dependency under Social Security guidelines and was so designated for at least six (6) months. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-10; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA)*

35 IAC 1.2-5-11 Benefits payable upon death

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 11. In any instance where retirement or disability benefits cease upon the death of the payee, if the payee was alive on

the first day of the month a benefit will be paid for such month. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-11; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-12 Minimum disability retirement benefit

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4; IC 5-10.3

Sec. 12. (a) After June 30, 2008, if the member chooses a pension benefit under IC 5-10.2-4-7(b) and elects to purchase an annuity with the amount in the member's ASA under IC 5-10.2-4-2(a), the minimum disability benefit payable may not be less than one hundred eighty dollars ($180). If the member elects a lump sum distribution of the ASA under IC 5-10.2-4-2 and/or a retirement benefit option other than that provided under IC 5-10.2-4-7(b), the minimum monthly disability benefit will be no less than the actuarial equivalent of one hundred eighty dollars ($180) if the benefit is payable after June 30, 2008. If the benefit is payable before July 1, 2008, the minimum monthly disability benefit will be no less than the actuarial equivalent of one hundred dollars ($100).

(b) After December 31, 2008, under IC 5-10.2-4-6, the minimum benefit provided by employer contributions to a retired member with at least ten (10) years creditable service not earned only as an elected official may not be less than one hundred eighty dollars ($180). *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-12; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Nov 21, 2008: 20090107-IR-035080955ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-5-12.1 De minimis accounts

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-3-6

Sec. 12.1. (a) If, after suspension, retirement, retirement for disability, death withdrawal, or other withdrawal, an inactive member's ASA account balance is below the de minimis amount as such amount is determined by PERF, PERF may close the member's account and credit the residual amount to the fund without further notice.

(b) A member or the member's beneficiary may claim the amount credited to the fund, and the account may be adjusted for gains, losses, or interest earnings unless otherwise limited by statute by petitioning PERF in writing.

(c) If the credited amount is from a suspended member's account, no gains or earnings shall be credited to the member's account in accordance with IC 5-10.2-3-6. *(Board of Trustees of the Indiana Public Employees' Retirement Fund; 35 IAC 1.2-5-12.1; adopted Jun 11, 2010: 20100728-IR-035100467ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA)*

35 IAC 1.2-5-12.2 De minimis overpayments

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-3-6

Sec. 12.2. If an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account is below the de minimis amount as determined within 35 IAC 1.2-2-1, PERF may elect to not collect the overpayment from the member. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-12.2; adopted Dec 17, 2010: 20101229-IR-035100777ONA)*

35 IAC 1.2-5-13 Beneficiary designation

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 13. (a) Active members may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive the member's annuity savings account equally or designated by whole percentage increments upon the death of the member. Contingent beneficiaries shall receive the member's annuity savings account if no primary beneficiaries survive

the member. If no primary and no contingent beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.

(b) Members electing a joint survivor option at retirement shall designate only one (1) person as beneficiary for their joint survivor benefits. The beneficiary must be a named individual.

(c) Retired members who choose a retirement option other than a joint and survivor option and who do not elect to withdraw the total balance of their annuity savings account may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive the unpaid balance, if any, of the member's annuity savings account upon the death of the member. Members may designate that the assets held in the account shall be divided equally or allocated by whole percentage increments to primary and contingent beneficiaries. Such designations must be on the appropriate form. Forms must be filed and accepted by the fund before they are effective. Contingent beneficiaries shall receive the member's annuity savings account if no primary beneficiaries survive the member. If no primary and no contingent beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.

(d) If a member has designated more than one (1) primary beneficiary, and one (1) or more of the primary beneficiaries predecease the member and the member does not complete a new beneficiary designation form, the remaining primary beneficiaries will receive an apportioned pro rata share based on the remaining primary beneficiaries' allocated percentages of the deceased primary beneficiary or beneficiaries portion. For example, member X designates three (3) primary beneficiaries as follows: Ann 60%, Bob 30%, and Carl 10%. Ann predeceases member X, and member X does not submit a new beneficiary designation form. Member X had $10,000 in her annuity savings account (ASA) at the time of her death. Ann's 60% share will be divided between Bob and Carl as follows: Bob $4,500 and Carl $1,500. Therefore, the total amount that Bob will receive from member X's ASA is $7,500, and the total amount that Carl will receive from member X's ASA is $2,500.

(e) The designated beneficiary's right to a benefit vests upon the death of the member in the designated beneficiary on file with the fund. A change of beneficiary designation must be made in a manner and form approved by the board and must be filed with the fund before the time of death of the member. A change of beneficiary designation received after the time of death of the member is not valid. A written beneficiary designation for the ASA or RSA must be witnessed by an individual other than the member's designated beneficiary. Timely electronic beneficiary designations submitted through the fund's website in a form and manner approved by the board shall be deemed to have met the requirements of this rule. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-13; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Jun 11, 2010: 20100728-IR-035100467ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA; adopted Feb 17, 2012: 20120222-IR-035120095ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA)*

35 IAC 1.2-5-13.1 Changes to survivor beneficiary designation or form of benefit

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-7; IC 5-10.2-4-7.2; IC 5-10.3

Sec. 13.1. (a) Eligible retired members may change their designated survivor beneficiary or form of benefit pursuant to IC 5-10.2-4-7.2 and this rule.

(b) A designated change to a survivor beneficiary or form of benefit is effective when the change application is received and verified by the fund, and any resulting adjustment to the form or amount of benefit shall be paid prospectively from the first of a month following the date the change application is received and verified by the fund. For example, Gill's designated survivor predeceases him on July 1. Gill applies to remove his designated beneficiary and change his form of benefit to straight life with no survivor beneficiary on December 1. Gill's recalculated benefit will be paid beginning on the first of a month following receipt and verification of the change application. There are no retroactive payments to or reductions to Gill's benefit relating back to the date of death of his original survivor.

(c) If a retiree makes an election to change the designated survivor or form of benefit, the retiree's benefit will be actuarially recalculated using all factors including annuity interest in effect at the time INPRS receives the member's election form. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-13.1; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 1.2-5-14 Five year guaranteed benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 14. If member elects five (5) year guaranteed benefits and does not live to exhaust them and his beneficiary does not live out the remainder of the five (5) years, then such remaining benefits accrue to the estate of the beneficiary and not to the estate of the member. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-14; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-15 No guarantee option

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 15. Under the no guarantee option, if the member dies prior to the first day of the month that benefits are scheduled to begin, the account reverts to an active status and the beneficiary receives the account as though the member had died in active service. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-15; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-16 Teachers Insurance and Annuity Association-College Retirement Equities Fund (TIAA-CREF)

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 16. Former PERF members who have transferred to the teachers insurance and annuity association-college retirement equities fund are not eligible for PERF disability benefits which are limited to PERF members in active service. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-16; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-17 Birth date; proof required

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3; IC 34-28-1

Sec. 17. (a) No retirement benefits shall be paid to a member until the member provides proof of date of birth in any one (1) of the following forms:

(1) A birth certificate or registration from the public health department or other governmental entity.

(2) A court decree obtained under IC 34-28-1 and certified by the clerk of the court.

(3) Other evidence relating to the member's date of birth may be submitted, and upon approval the board shall fix a date based thereon.

(b) A member selecting a joint and survivor retirement option shall also provide evidence of the date of birth of the cosurvivor. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-17; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA)*

35 IAC 1.2-5-18 Minors and other incompetent persons

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3; IC 29-3

Sec. 18. Minors and other incompetent beneficiaries are governed by Indiana guardianship law set forth in IC 29-3, Indiana Probate Code. However, payments may be made to minor beneficiaries pursuant to the Uniform Transfers to Minors Act. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-18; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed*

Dec 2, 2001, 12:35 p.m.: 25 IR 1266; adopted Nov 9, 2007: 20071205-IR-035070818ONA)

35 IAC 1.2-5-19 Proration of retirement costs

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 19. (a) A member with service credit from more than one (1) employer shall have his retirement reserve cost prorated based on months of service among all his or her employers.

(b) Any employer may object to this basis of proration by written objection made within fifteen (15) days from receipt by the employer of notification of each such proration.

(c) The fund may, if evidence of substantial inequity is presented by such objecting employer, use the following basis for reaching a result.

(d) The annual compensation for each calendar year or part thereof shall be divided by the annual average consumer price index figure (1967 = $100) of the U.S. Bureau of Labor Statistics for each such year to determine a weighted salary for each year or part thereof.

(e) The fund shall prorate retirement reserve costs to participating employers on the basis of the weighted salary each has paid, or such other method that, in the judgment of the fund, equitably allocates the retirement reserve cost between the member's employers. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-19; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1084; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-20 Early retirement reduction of benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 20. When computing the age for determining the reduction percentage for early retirement, any fractions of a month shall not count. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-20; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-5-21 ASA valuation

Authority: IC 5-10.2-2-1; IC 5-10.2-2-3; IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4

Sec. 21. (a) A member may direct an allocation in the amount credited to the member among the guaranteed program and any available alternative accounts subject to the following conditions:

(1) PERF shall allow a member to make a change or selection at least once a day.

(2) PERF shall implement the member's selection the same day the selection is received by PERF, unless such selection is received after 4:00 p.m. EST on a business day, or anytime on a weekend or holiday, or any other date the New York Stock Exchange is closed, then PERF shall implement the member's selection beginning the next business day after the selection is received. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed program or any of the available alternative accounts in one percent (1%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, PERF shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the sum of the market value on the effective date, minus any applicable investment management fees; and

(B) for any guaranteed program balance, the account balance on the effective date.

(b) When a member who participates in the alternative or guaranteed investment programs transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed

program, the amount credited to the member shall be valued at the sum of the market value of the member's investment, as of the effective date of the member's selection, minus any applicable investment management fees.

(c) When a member who participates in an alternative investment program retires, becomes disabled, or suspends membership and withdraws from the fund, the amount credited to the member shall be the sum of the market value of the member's investment as of the day after INPRS receives the member's application for distribution or annuitization at retirement, disability, or suspension and withdrawal, plus contributions received after that date, minus any applicable investment management fees.

(d) When a member who participates in an alternative investment program dies, within five (5) business days after the date of death notification is received by PERF, the entire amount in the member's annuity savings account will be moved into the guaranteed program or a fixed value account, set at the same rate as the guaranteed program. Such death notification shall be on a form or in a manner approved by PERF. The amount credited to the member's account and moved to the fixed value account shall be the sum of the market value of the member's investment as of the day the amount in the member's annuity savings account is moved to the fixed value account minus any applicable investment management fees.

(e) Subject to and in accordance with the distribution provisions of IC 5-10.2-3 and IC 5-10.2-4, in the event that the member has designated beneficiaries, beneficiary accounts will be established for each beneficiary and the pro rata share of all monies in the member's ASA will be moved to the respective beneficiary account and invested in the guaranteed program or a fixed value account, set at the same rate as the guaranteed program until claimed or forfeited under IC 5-10.2-3. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-21; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 1.2-5-22 Unclaimed ASA assets within dormant accounts

Authority IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-3; IC 5-10.2-2-4

Sec. 22. (a) Whenever a vested member's account has received no contributions for a period of twenty (20) years and it has been determined by PERF that the member is otherwise age and service eligible to receive a benefit, 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 1.2-5-22; adopted Feb 19, 2010: 20100310-IR-035100124ONA)*

35 IAC 1.2-5-23 Stale checks

Authority: IC 5-10.2-2-1; IC 5-10.5-4-2
Affected: IC 5-10.2-2-3; IC 5-10.2-3-6; IC 5-10.2-4-2

Sec. 23. Whenever a member applies for a distribution from the member's annuity savings account, an effective distribution will be deemed to have occurred as of the date the check is issued. If the member fails to negotiate the check within one hundred eighty (180) days from issuance, the amount of the check may be credited to the fund as posttax monies and it will not be further adjusted for earnings, interest, or losses. The fund will retain the monies until the member claims them in writing. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-23; adopted Dec 17, 2010: 20101229-IR-035100777ONA)*

35 IAC 1.2-5-24 Physicians appointed for the Judges' Retirement System

Authority: IC 5-10.5-4-2; IC 33-38-8
Affected: IC 33-38-8-15

Sec. 24. For the administration of disability claims under IC 33-38-8-15, a licensed treating physician of the member may be designated by INPRS as a physician appointed by the board of trustees. However such designation shall not entitle the treating

physician to remuneration or other compensation paid from INPRS unless there is an express written agreement signed by the parties in advance of any compensable services provided by the treating physician. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-24; adopted Dec 14, 2012: 20121226-IR-035120663ONA)*

35 IAC 1.2-5-25 Purchase of canceled service credit in the judges' retirement system

Authority: IC 5-10.5-4-2; IC 33-38-8
Affected: IC 33-38-8

Sec. 25. (a) A member who had previous creditable service in the judges' retirement system (JRS) and who had cancelled such creditable service by terminating their membership in the JRS and who withdrew their contributions to their JRS account may restore such creditable service by:

(1) returning to covered service in the JRS for at least one (1) year; and

(2) while actively serving in the JRS, purchase all or part of the previous service credit in one (1) month increments at a rate, determined by the actuary for INPRS, that is based on the actuarial factors at the time the member makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(b) The following apply to the purchase of service credit under this rule:

(1) The member may make periodic payments of the contributions required for the purchase of service credit in annual installments for a period not to exceed five (5) years. Payments will be subject to the terms and conditions of a service purchase agreement as described in the INPRS rules for PERF and TRF. Any installment may bear interest at the actuarial assumed interest rate effective on the date of the first installment.

(2) INPRS may deny an application or may limit any payments for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(c) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire contribution account to be eligible for a refund of the member's service purchase payments.

(d) In the event any annual payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund member is not eligible to make service purchase payments after the date of the payment default.

(e) If the member does not choose periodic payments, a lump sum payment must be received within ninety (90) days of the member receiving the cost letter. In the event the lump sum payment is not timely made, allowing for a thirty (30) day grace period, the payment will be deemed in default under the terms of the finance agreement. The fund member is not eligible to make service purchase payments after the date of the payment default.

(f) In the event of payment default, a partial service credit amount will be determined by INPRS. The partial service credit amount will be based on the payments made as of the date of payment default and the actuarial cost of the service. The minimum amount of partial service credit will be one (1) month. Partial service will be credited in monthly increments. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-25; adopted Dec 14, 2012: 20121226-IR-035120663ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Dec 13, 2013: 20131225-IR-035130565ONA)*

35 IAC 1.2-5-26 ASA and RSA annuity interest

Authority: IC 5-10.2-2-1; IC 5-10.2-2-3; IC 5-10.5-4-2
Affected: IC 5-10.2-3; IC 5-10.2-4; IC 5-10.5-4-2.6

Sec. 26. (a) When a member elects to annuitize their ASA or their RSA, the annuitized interest rate will be applied beginning with the date of the distribution of the annuity and the annuity will be calculated prospectively from that date regardless whether the distribution was deferred under IC 5-10.2-4-2(c), there is a retroactive disability payment under IC 5-10.2-4-6, or there is a retroactive benefit payment under IC 5-10.2-4-8.2.

(b) The annuity interest rate is determined by IC 5-10.5-4-2.6 and this rule. Except for as set forth in subsection (c), the annuity interest rate that will be applied is the rate in effect as of the the *[sic]* retirement date as determined under IC 5-10.2-4-1.3, the disability retirement date, or the member's retirement date due to an election made under IC 5-10.2-4-8.2.

(c) When a member elects to change their survivor beneficiary or pension option, or both, under IC 5-10.2-4-7.2, the annuity interest rate that will be applied is the rate in effect as of the date INPRS receives the member's election form.

(d) When a member elects to defer receiving, in any form, the member's annuity savings account under IC 5-10.2-4-2(c), the annuity interest rate that will be applied is the rate in effect as of the date INPRS receives the member's postretirement payment of ASA election form. For example, Julia is a seventy-five (75) year old active member with twenty-five (25) years of creditable service. She makes an election under IC 5-10.2-4-8.2 to begin receiving benefits relating back to the date she was first eligible to make the election (five (5) years ago). Julia elects to annuitize her ASA. The annuity is calculated and interest rate is the rate in effect on the date Julia elects as her retirement date. Julia will receive five (5) years of retroactive pension benefits using only twenty (20) years of service credit in the pension calculation. Because Julia's ASA account was actively earning interest, gains, or losses during the five (5) year period before Julia made the election, and the ASA had not been annuitized during this period, the annuitized interest rate will be applied beginning with the actual date of distribution of the annuity. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-26; adopted Apr 26, 2013: 20130508-IR-035130167ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

Rule 6. Miscellaneous

35 IAC 1.2-6-1 Employer payments

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3-2; IC 5-10.3-7-12.5

Sec. 1. (a) In accordance with and pursuant to IC 5-10.3-7-12.5, the Indiana public retirement system board of trustees herein sets the due date for contributions as seven (7) days after a covered employer's payroll unless otherwise approved by the board. For adjustments to incorrect reports and contributions by the employer, the due date is seven (7) days after the pay period end date of the original wage and contribution report.

(b) Notwithstanding subsection (a), the due date for adjustments to wages and contributions for members returning to covered employment from military service is thirty (30) days after the member is reemployed.

(c) Upon written request of INPRS, covered employers shall submit their payroll date to PERF in a manner or form established by INPRS within seven (7) days of receipt of such request.

(d) Any payments not made on the due date may at INPRS' discretion accrue interest at a rate equal to the rate established in section 5.5(b) of this rule.

(e) Any employer who fails to submit required contributions and reports within thirty (30) days of the due date will be subject to a penalty as set forth in IC 5-10.3-7-12.5. If the thirtieth day following the due date falls on a Saturday, Sunday, or legal holiday, the due date becomes the next working day.

(f) An employer who has elected to pick up the mandatory employee contributions of its employees must do so by resolution in accordance with IC 5-10.2-3-2(d). An employer who wants to rescind its election to pick up the mandatory employee contributions must do so in writing with approval of its governing body. The change will be effective the first payroll date following the date INPRS receives and approves the change. For purposes of IC 5-10.3-7-12.5(c), habitually late is defined as failing to submit required contributions, records, or reports for over sixty (60) days after the due date.

(g) An employer deemed habitually late will remain in the habitually late status until it submits reports and contributions for twelve (12) months within seven (7) days of the respective due date and after fulfilling all delinquent reporting and contribution requirements. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Jun 11, 2010: 20100728-IR-035100467ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Dec 13, 2013: 20131225-IR-035130565ONA; adopted Mar 6, 2015: 20150318-IR-035150060ONA)*

35 IAC 1.2-6-2 Admission to the fund

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-2-1; IC 5-10.3-6-1

Sec. 2. (a) Admission to the fund by a political subdivision shall be governed by IC 5-10.3-6-1.

(b) In addition, any political subdivision whose existence is subject to termination or whose funding is dependent upon sources external to it must demonstrate to the board's satisfaction that any problems which might arise are fully addressed and resolved or it will not be admitted. The board's consideration and determination will be guided in part by the political subdivision's demonstrated ability to meet all obligations to the fund, both current and ongoing.

(c) A township trustee will not be considered as the governing body of a township for purposes of the fund and the board will not approve any ordinance or resolution coming solely from such township trustees. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-2; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-6-3 Enlargement of PERF coverage (Repealed)

Sec. 3. *(Repealed by Board of Trustees of the Indiana Public Retirement System; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-6-4 Deductions for health insurance and taxes; minimum amount

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 4. An eligible member may request deductions for health insurance or taxes if the deductions do not reduce the check amount below ten dollars ($10) a month. Tax withholdings may be made in any whole dollar increment greater than five dollars ($5). *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-4; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-6-5 Interest on employer's accounts

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 5. All political subdivisions having a negative year-end account balance may be charged an appropriate interest rate as determined by the fund. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-5; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1085; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-6-5.5 Adjustments

Authority: IC 5-10.2-2-1.5; IC 5-10.5-4-2
Affected: IC 5-10.2-3-2; IC 5-10.2-2-11; IC 5-10.3; IC 6-8.1-10-1

Sec. 5.5. (a) When the employer submits the correct contributions to a member's ASA, but PERF posts the contributions to

an incorrect account, the principal amount will be removed from the incorrect account. The principal amount adjusted at the interest rate defined in subsection (b) will be posted to the correct account.

(b) For purposes of this section, the interest rate shall be determined by the executive director annually, and shall not exceed the rate of interest set each year within IC 6-8.1-10-1(b).

(c) Prior to the passage of 35 IAC 1.2-5-23, any member whose ASA lump sum full or partial distribution was not negotiated within one hundred eighty (180) days will receive interest on the amount of the payment beginning on the one hundred eighty-first day after the distribution was made at the interest rate defined in subsection (b). *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-5.5; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Sep 16, 2010: 20100929-IR-035100611ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA; adopted Dec 17, 2010: 20101229-IR-035100777ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA)*

35 IAC 1.2-6-6 Refund of contributions

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 6. A member who is on an approved leave of absence is not eligible for a refund of contributions and accumulated interest unless the reason for the leave is a layoff. In order for a member to receive a refund of his PERF contributions and accumulated interest, the member must have terminated his employment and be certified by his employer as being off the payroll and the date of termination. Employer verification is not required whenever more than one (1) year lapses from the date of the member's separation from employment and contributions to the fund cease. An application for voluntary withdrawal of contributions submitted by the member is an affirmation by the member that the member has separated from employment. Refunds will be made on or after the fifteenth day of the month next following the month of termination, if such termination is on or prior to the fifteenth day of the month and the application for refund is received prior to the end of the month of termination. If the member becomes reemployed in a PERF-covered position within thirty (30) days from the date of such termination then the effective date of the suspension of membership shall be automatically deferred and the member shall not be eligible for such refund. The member shall notify PERF immediately if the member becomes reemployed within such thirty (30) day period. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-6; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1086;readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Dec 17, 2010: 20101229-IR-035100777ONA)*

35 IAC 1.2-6-7 Legislators' defined contribution plan loans

Authority: IC 2-3.5-5-11; IC 5-10.3-3-8; IC 5-10.5-4-2
Affected: IC 2-3.5-5-11

Sec. 7. (a) Any participant in the legislators' defined contribution plan may apply on the applicable form to the fund for a loan from the legislators' defined contribution plan pursuant to this rule and such other procedures as may be established by the fund. Such loans will be available to all such participants on a uniform and nondiscriminatory basis. All loans are subject to the approval of the fund or its designee.

(b) The maximum amount of such loan, when added to the outstanding balance of all other loans from the fund, shall not exceed the lesser of:

(1) fifty thousand dollars ($50,000), reduced by the excess, if any, of the highest outstanding balance of loans from the fund during the one (1) year period ending on the day before the date on which the loan is made, over the outstanding balance of loans from the fund on the date on which such loan is made; or

(2) one-half (1/2) of the employee's accounts within the defined contribution plan of the participant under the fund.

(c) Subject to subsection (b), the minimum amount of a loan shall be one thousand dollars ($1,000).

(d) The loan program described in this rule shall by administered by the fund or its designee. All loans shall comply with the following terms and conditions:

(1) All loans shall be subject to applicable Internal Revenue Service regulations and restrictions.

(2) A participant may apply for a loan by completing the applicable forms.

(3) Each loan shall be amortized on a substantially level basis with monthly payments. Payments shall be made on the first of a month for that month. The period of repayment shall be a minimum of twelve (12) months and shall not exceed five (5) years from the loan origination date. Notwithstanding the preceding sentence, the term of the loan shall not extend beyond the earlier of:

(A) in the case of a distribution which begins after the date of the loan, the date such distribution of the employee's accounts within the defined contribution plan of the participant under the fund begins; or

(B) the date of a default on the loan.

(e) The participant receiving the loan shall make the required repayments in accordance with the loan agreement.

(f) The rate of interest shall be the prime rate per annum, as published in The Wall Street Journal on the first day of the quarter (or the earliest publication day of the quarter in the event of a publication holiday) in which a completed loan application is submitted, plus one percent (1%). A loan will carry the same interest rate throughout its term.

(g) The fund shall declare a default on a loan as of:

(1) the last day of the calendar quarter following the calendar quarter in which the participant fails to make a payment, unless the participant pays the amount due plus accrued interest and makes the loan account current with no other outstanding late payments owed prior to such date; or

(2) the date thirty (30) days after the fund in good faith deems the plan insecure with respect to the repayment of the loan and notifies the participant of this deemed insecurity.

(h) On default, the entire amount outstanding on the participant's loan will be due and payable.

(i) On default, the fund shall report to the Internal Revenue Service the outstanding loan balance (principal and interest) as a taxable distribution to the participant, which may also be subject to an additional ten percent (10%) excise tax under the Internal Revenue Code.

(j) A defaulted loan will continue to accrue interest until the loan amount has been repaid even in the event of a deemed distribution.

(k) Each loan shall be adequately secured. The plan shall have a security interest in the employee's accounts within the defined contribution plan of the participant under the fund.

(l) Any loan to a participant shall be considered to be a separate asset of the legislators' defined contribution plan segregated for the benefit of such participant. The interest paid on the loan shall be credited to the employee's accounts within the defined contribution plan of the participant. Such portion of the employee's accounts within the defined contribution plan on loan to the participant shall not share in the allocation of gains or losses. The principal and interest paid on the loan shall be credited to such employee's accounts within the defined contribution plan as determined by the fund.

(m) A participant may not take out any additional loans while the participant has a loan in default.

(n) A participant may not take more than two (2) loans in any calendar year.

(o) A participant may have any number of loans outstanding as long as all of the requirements of this rule are met.

(p) Any loan processing fee charged by a third party will be paid by the participant from the employee's accounts within the defined contribution plan of the participant.

(q) The loan proceeds will come from the employee's accounts within the defined contribution plan of the participant on a pro rata basis, and from the directed investment options of the participant on a pro rata basis.

(r) The participant may prepay, without penalty, the entire (or any part of the) outstanding principal balance of the loan and accrued interest to date of repayment. Prepayments should be made by check or other negotiable instrument (excluding cash) made payable to the fund and delivered to the fund or its designee. No reamortization will apply. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-7; filed Dec 18, 2001, 9:09 a.m.: 25 IR 1488; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA)*

35 IAC 1.2-6-8 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. 8. (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 totaling not more than one thousand dollars ($1,000)

posted to a member's account after the final date on which the member's benefit is processed shall be distributed to the member in a lump-sum payment.

(b) No later than October 1, 2014, a member may elect to receive annuity savings account contributions exceeding one thousand dollars ($1,000) posted to a member's account after the final date on which the member's benefit is processed in either a lump-sum payment or as a direct rollover to a non-PERF tax deferred account.

(c) 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 disabilitants, will have the entire amount in the member's annuity savings account moved into a fixed value account, set at the same rate as the guaranteed fund. 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, set at the same rate as the guaranteed fund, until such time as that amount is distributed to the member. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-8; adopted Dec 21, 2007: 20080109-IR-035080003ONA; adopted Feb 19, 2010: 20100310-IR-035100124ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

35 IAC 1.2-6-9 Direct deposit of benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-4-1.2

Sec. 9. (a) Direct deposit is the preferred way for members and beneficiaries to receive monthly benefits. A member or beneficiary who does not wish to have payments to the person deposited by direct deposit or another method approved by the board may request a waiver of the requirement of direct deposit or another method approved by the board. The member or beneficiary must:

(1) state the reason for requesting the waiver; and

(2) sign a waiver form.

(b) PERF shall grant the member's or beneficiary's request for a waiver, approval of which shall not be unreasonably denied, if any of the following apply:

(1) The member or beneficiary currently does not have a savings or checking account.

(2) The member or beneficiary is unable to establish a savings or checking account within the geographic area of the home of the member or beneficiary without payment of a service fee. In support of this reason, the member or beneficiary must submit a written statement of the inability to establish the account without the payment of a fee with the waiver request.

(3) The home of the member or beneficiary is too remote to have access to a financial institution where direct deposit or another method approved by the board may be made.

(4) The financial institution of the member or beneficiary is unable to:

(A) accept direct deposit or another method approved by the board; or

(B) process electronic withdrawal.

The member or beneficiary must submit with the waiver a written statement from the financial institution of the member or beneficiary that the financial institution is unable to accept direct deposit or another method approved by the board or process electronic withdrawal.

(5) PERF determines that the facts of the particular case warrant a waiver of the requirement of direct deposit or another method approved by the board. A member or beneficiary who is in pay status as of July 1, 2009, and is receiving monthly benefits in a manner other than direct deposit or another method approved by the board shall not have the monthly benefits stopped for receiving monthly benefits in a manner other than direct deposit or another method approved by the board.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-9; adopted Feb 19, 2010: 20100310-IR-035100124ONA)

35 IAC 1.2-6-10 Withholding of payments

Authority: IC 5-10.5-4-2
Affected: IC 4-21.5; IC 5-10.2; IC 5-10.3

Sec. 10. Benefit payments may be withheld under any of the following circumstances:

(1) To offset the overpayment of benefits to a member or beneficiary until the overpayment is repaid to the fund.

(2) Pending investigation after three (3) consecutive monthly benefit checks have been returned by the United States Postal Service as undeliverable.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-10; adopted Nov 19, 2010: 20101208-IR-035100722ONA)

35 IAC 1.2-6-11 Disclaimer of interest in benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3; IC 32-17.5

Sec. 11. (a) A member or beneficiary may disclaim in whole or part an interest in the benefits or assets held by PERF of which the member or beneficiary is otherwise entitled pursuant to the Uniform Disclaimer of Property Act (Act) and in accordance with this rule.

(b) A disclaimer made under the Act is not a transfer, an assignment, or a release.

(c) The disclaimer shall be in writing, titled "Disclaimer", identifying the interest to be disclaimed, and signed by the disclaimant.

(d) Any interest disclaimed in accordance with this rule shall pass as if the disclaimant had died immediately before the time of the distribution and such disclaimer is irrevocable once delivered to PERF. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-11; adopted Sep 16, 2011: 20110928-IR-035110563ONA)*

35 IAC 1.2-6-12 Withdrawal of political subdivisions and charter schools

Authority: IC 5-10.5-4-2
Affected: IC 5-10.3-6-8; IC 20-24-6-7

Sec. 12. (a) The withdrawal of a political subdivision and charter schools are governed by IC 5-10.3-6-8 and this rule.

(b) Whenever a political subdivision or charter school intends to stop participation in PERF not as a result of the termination of the participant as an entity or as a result of the participant selling all of the participant's assets, the following process will apply:

(1) the withdrawing employer participant shall notify PERF in writing of its intent to withdraw and stop participating;

(2) the date of the notice shall be the first day of a participant's payroll period;

(3) the withdrawing participant shall provide the names of the participant's current and former employees as of the date on which the notice was provided;

(4) no further employee or employer contributions shall be made and no further service credit shall accrue from the date of the notice;

(5) PERF will determine the participant's liabilities as described in IC 5-10.3-6-8 as of the date of the notice;

(6) the participant shall contribute to PERF the amount necessary to pay the liability in a lump sum or amortized over a two (2) year period beginning with the notice date; and

(7) two (2) years after the notice date provided that all the requirements of IC 5-10.3-6-8 and this rule have been met, a termination date shall be set by PERF.

(c) Should a political subdivision or charter school revoke its notice of intent to withdraw after receiving notification of its liabilities files another notice of intent to withdraw within one hundred eighty (180) days of receipt of its notification of liabilities or request another calculation of its liabilities for any reason within one hundred eighty (180) days of the previous calculation of its liabilities, the political subdivision or charter school shall pay the cost of the additional calculation.

(d) Should a political subdivision or charter school revoke its notice of intent to withdraw, the past contributions plus interest, if any, will be immediately due and payable to INPRS at the current actuarial interest assumption. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-12; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA)*

35 IAC 1.2-6-12.1 Refund of contributions following election to begin receiving benefits

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-3-2; IC 5-10.2-4-8.2; IC 5-10.3

Sec. 12.1. A member who makes an election to continue making contributions under IC 5-10.2-3-2 after making an election to begin or continue receiving retirement benefits under IC 5-10.2-4-8.2 may not withdraw such contributions and earnings until the member has separated from covered service. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-12.1; adopted Apr 26, 2013: 20130508-IR-035130167ONA)*

35 IAC 1.2-6-13 Member name changes

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3-7-1

Sec. 13. PERF may accept member name changes from the member's employer on behalf of the member for administration of PERF business in a form and manner prescribed by PERF that includes a certification from the employer that the name change has been verified by the employer and supported with a copy of a marriage certificate, divorce decree, or other court order filed with the employer. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-13; adopted Sep 16, 2011: 20110928-IR-035110563ONA)*

35 IAC 1.2-6-14 Benefits payable to surviving spouse of the Prosecuting Attorneys' Retirement Fund (PARF)

Authority: IC 5-10.5-4-2; IC 33-39-7-11
Affected: IC 33-39-7-19

Sec. 14. Benefits payable to a surviving spouse under IC 33-39-7-19 are reduced by the amounts, if any, that are payable to the surviving spouse from the public employees' retirement fund as a result of the participant's death. When calculating this reduction, the amounts attributable from the annuity savings account, if any, are not to be included. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-14; adopted Dec 14, 2012: 20121226-IR-035120663ONA)*

35 IAC 1.2-6-15 Death in service; compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART)

Authority: IC 2-3.5-3-4; IC 5-10.5-4-2; IC 33-38-6-23; IC 33-39-7-11
Affected: IC 2-3.5; IC 33-38; IC 33-39-7

Sec. 15. (a) This section applies to members of the Judges' Retirement System 1977 Benefit Plan, the Judges' Retirement System 1985 Benefit Plan, the Indiana Prosecuting Attorneys' Retirement Fund, the Legislators' Defined Benefit Plan, and the Legislators' Defined Contribution Plan. Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent permitted by Section 414(u)(9) of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-15; adopted Apr 26, 2013:*

20130508-IR-035130167ONA)

35 IAC 1.2-6-16 Required minimum distributions; compliance with the Worker, Retiree, and Employee Recovery Act of 2008 (WRERA)

Authority: IC 2-3.5-3-4; IC 5-10.5-4-2
Affected: IC 2-3.5-5

Sec. 16. A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of IRC Section 401(a)(9)(H) (2009 RMDs), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one (1) or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least ten (10) years (Extended 2009 RMDs), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Further, the 2009 RMDs and Extended 2009 RMDs will not be treated as eligible rollover distributions. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-16; adopted Apr 26, 2013: 20130508-IR-035130167ONA)*

35 IAC 1.2-6-17 Prosecuting Attorneys' Retirement Fund (PARF) retirement benefit PERF offset calculation

Authority: IC 5-10.5-4-2; IC 33-39-7-11
Affected: IC 5-10.2-4-7; IC 33-39-7-16

Sec. 17. When calculating the reduction in PARF benefits described in IC 33-39-7-16(e) and IC 33-39-7-16(f), the pension, if any, that would be payable to the participant from the public employees' retirement fund will be based on the pension amount under IC 5-10.2-4-7(b) (commonly referred to as normal retirement option 10). *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-6-17; adopted Jun 20, 2014: 20140820-IR-035140335ONA)*

Rule 7. Administrative Proceedings

35 IAC 1.2-7-1 Administrative orders; proceedings; reviews

Authority: IC 5-10.5-4-2
Affected: IC 4-21.5; IC 5-10.2; IC 5-10.3

Sec. 1. All administrative orders, proceedings, and reviews shall be made pursuant to IC 4-21.5. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-7-1; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1086; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-7-2 Pre-trial procedures

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2; IC 5-10.3

Sec. 2. After any matter has been assigned to an administrative law judge, a prehearing conference may be set by the administrative law judge. The conference shall follow Indiana Trial Rule 16 to the extent applicable. At this time the administrative law judge may encourage any informal proceedings to settle the matter to the extent allowed by law. No person shall be required to make settlement under these informal proceedings. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-7-2; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1086; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: 20071205-IR-035070818ONA; adopted Nov 19, 2010: 20101208-IR-035100722ONA)*

35 IAC 1.2-7-3 Administrative orders; proceedings; reviews

Authority: IC 5-10.5-4-2
Affected: IC 2-3.5-3-4; IC 4-21.5-3-5; IC 4-21.5-3-28; IC 5-10.2; IC 5-10.3-8-5; IC 33-38-6-23; IC 33-39-7-11

Sec. 3. (a) The purpose of this rule is to establish procedures to process petitioner appeals of PERF staff action, determinations, or decisions referred to as "staff action" in accordance with and pursuant to the Indiana Administrative Orders and Procedures Act (Act), IC 4-21.5-3.

(b) Pursuant to IC 4-21.5-3-28, the executive director (ED) as the board's delegate is the ultimate authority and has set forth the following review process to be followed before a final order is issued:

(1) PERF will issue an initial determination of its response to a questioned action.

(2) The initial determination will be sent by certified mail to the stakeholder with a summary of the member's right to administrative review.

(3) Pursuant to IC 4-21.5-3-5, the petitioner will have fifteen (15) days from receipt of PERF's initial determination to appeal in writing.

(4) Upon receipt by PERF a copy of the appeal will be sent to the administrative law judge (ALJ) assigned to the matter.

(5) The assigned ALJ may set a prehearing conference to discuss issues of discovery and motions for summary judgment and to determine a briefing schedule.

(6) If an evidentiary hearing is required, PERF shall provide space which is equipped with a recording device to conduct the hearing or engage a court reporter to make a record of the hearing if necessary.

(7) Once the ALJ has entered a decision and recommended order, the petitioner will have fifteen (15) days to object to the ALJ's decision.

(8) The ED will make a final determination to affirm, modify, or dissolve the ALJ's order. The executed final order will be mailed by certified mail to the ALJ and petitioner

(9) The petitioner has thirty (30) days from receipt of the final order to petition a court of jurisdiction for judicial review.

(10) If no petition for judicial review is filed within the thirty (30) day time period, the file is closed.

(11) This rule shall be interpreted to conform to the Act and shall be implemented pursuant to and in accordance with the Act.

(c) This rule will apply to appeals filed pursuant to IC 5-10.3-8-5, IC 33-39-7-11, IC 33-38-6-23, and IC 2-3.5-3-4. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-7-3; adopted Nov 19, 2010: 20101208-IR-035100722ONA)*

35 IAC 1.2-7-4 PERF benefit payments pending appeal

Authority: IC 5-10.5-4-2
Affected: IC 4-21.5; IC 5-10.2; IC 5-10.3; IC 34-13-1-6

Sec. 4. (a) A member who elects to exercise the right to appeal an initial determination issued by PERF, the prosecuting attorneys' retirement fund, the judges' retirement system, or the legislators' retirement system may receive benefit payments less the disputed amount while the matter is pending. Should the matter be resolved in the member's favor, future benefits will be adjusted accordingly and a lump-sum payment for past benefits due shall be issued within sixty (60) days. If, however, the necessary information has not been provided or was delayed, the sixty (60) day period will be extended accordingly.

(b) Whenever, by final decree or judgment, a sum of money is adjudged to be due to a person, the judgment shall draw an annual rate of interest as described in IC 34-13-1-6. The fund shall not pay prejudgment interest. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-7-4; adopted Nov 19, 2010: 20101208-IR-035100722ONA)*

Rule 8. Cost-of-Living Adjustment

35 IAC 1.2-8-1 Calculation

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-5-29; IC 5-10.2-5-30

Sec. 1. A cost-of-living adjustment based on purchasing power replacement shall be calculated using the following elements for determinations made as of July 1:

(1) The Consumer Price Index-W from the prior March 31 shall be used.

(2) For comparative purposes, the appropriate prior years' March 31 Consumer Price Index-W numbers shall be used.

(3) Retirees will be grouped (based on their latest retirement or disability date) by twelve (12) month periods running from July 2 through the following July 1. A single net adjustment percentage shall be calculated for each such group.

(4) Minimum and maximum amounts in prior postretirement adjustments shall not be taken into account.

(5) So-called "13th checks" shall not be taken into account.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-8-1; filed May 18, 2001, 10:38 a.m.: 24 IR 3014; adopted Nov 9, 2007: 20071205-IR-035070818ONA)

35 IAC 1.2-8-2 Formula

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-5-29; IC 5-10.2-5-30

Sec. 2. (a) The elements established in section 1 of this rule shall be used in the formula in subsection (b).

(b) Compare the cumulative Consumer Price Index increase for an affected group to the cumulative postretirement cost-of-living adjustments for that group, as determined under section 1 of this rule, and increase that group's pension portion by the percentage (if any) determined by the fund actuary, as necessary to reach the minimum purchasing power established by the Indiana general assembly, for example:

(1) fifty percent (50%) for 1999; and

(2) fifty-seven and four-tenths percent (57.4%) for 2000.

(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-8-2; filed May 18, 2001, 10:38 a.m.: 24 IR 3014; adopted Nov 9, 2007: 20071205-IR-035070818ONA)

35 IAC 1.2-8-3 Increases

Authority: IC 5-10.5-4-2
Affected: IC 5-10.2-5-29; IC 5-10.2-5-30

Sec. 3. The increase shall be applied as of July of any year established by the general assembly, the first such year beginning July 1, 1999. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-8-3; filed May 18, 2001, 10:38 a.m.: 24 IR 3014; adopted Nov 9, 2007: 20071205-IR-035070818ONA)*

35 IAC 1.2-8-4 Thirteenth check

Authority: IC 5-10.5-4-2
Affected: IC 5-10-5.5; IC 5-10.2; IC 5-10.3; IC 5-10.4; IC 5-10.5

Sec. 4. Unless otherwise provided by law, eligible multiple survivor beneficiaries authorized to receive a one (1) time ad hoc payment commonly known as the thirteenth check shall receive a pro rata share of the underlying amount that a single survivor beneficiary would receive had there been only one (1) eligible survivor beneficiary designated on a member's account administered by the system. *(Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-8-4; adopted Feb 17, 2012: 20120222-IR-035120095ONA)*

35 IAC 1.2-8-5 Actuarial rules

Authority: IC 5-10.3
Affected: IC 5-10.3

Sec. 5. 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 1.2-8-5; adopted Sep 14, 2012: 20120926-IR-035120542ONA)*

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