581—21.28(97B) Offsets against amounts payable. IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member's designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member's designated beneficiaries, heirs, assigns or other successors in interest.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.25.

581—21.29(97B) Qualified domestic relations orders. This rule shall apply only to marital property orders. All support orders shall continue to be administered under rule 581—21.26(97B).

21.29(1) *Definitions.*

"Alternate payee" means a spouse or former spouse of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by IPERS with respect to such member. "Alternate payee" also refers to persons who are entitled pursuant to a qualified domestic relations order to receive benefits after the death of the original alternate payee.

"Benefits" means, for purposes of this rule and depending on the context, a refund, monthly allowance (including monthly allowance paid as an actuarial equivalent (AE)), or death benefit payable with respect to a member covered under IPERS. "Benefits" does not include dividends payable under Iowa Code section 97B.49 or other cost-of-living increases unless specifically provided for in a qualified domestic relations order.

"Domestic relations order" means any judgment, decree, or order which relates to the provision of marital property rights to a spouse or former spouse of a member and is made pursuant to the domestic relations laws of a state.

"Member" means, for purposes of this rule, IPERS members, beneficiaries, and contingent annuitants.

"Qualified domestic relations order" means a domestic relations order which assigns to an alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

"Trigger event" means a distribution or series of distributions of benefits made with respect to a member.

21.29(2) *Requirements.*

a. Mandatory provisions. A domestic relations order is a qualified domestic relations order if such order:

(1) Clearly specifies the member's name and last-known mailing address and the names and last-known mailing addresses of alternate payees, and requires that the social security numbers of the member and alternate payees be provided to IPERS in a cover letter or a court's Confidential Information Form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member's benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member's accrued benefit;

(3) Clearly specifies the period to which such order applies, including whether benefits cease upon the death or remarriage of the alternate payee;

(4) Clearly specifies that the order applies to IPERS; and

(5) Clearly specifies that the order is for purposes of making a property division.

b. Prohibited provisions. A domestic relations order is not a qualified domestic relations order if such order:

(1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;

(2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;

(3) Requires the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined by IPERS to be a qualified domestic relations order;

(4) Requires any action by IPERS that is contrary to its governing statutes or plan provisions;

(5) Awards any future benefit increases that are provided by the legislature, except as provided in 21.29(2)*"c"*(2); or

(6) Requires the payment of benefits to an alternate payee prior to a trigger event.

c. *Permitted provisions.* A qualified domestic relations order may also:

(1) If a trigger event has not occurred as of the date the order is received by IPERS, name an alternate payee as a designated beneficiary or contingent annuitant, require the payment of benefits under a particular benefit option, or both;

(2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, as follows:

1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining said dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and

2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent; and

(4) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if the order does not provide the successor's name, Social Security number, and last-known mailing address.

21.29(3) *Administrative provisions.*

a. Payment to an alternate payee shall be made in a like manner and at the same time that payment is made to the member. Payment to the alternate payee shall be in a lump sum if benefits are paid in a lump sum distribution or as monthly payments if a retirement option is in effect. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

b. If a domestic relations order does not so provide, the alternate payee shall not be entitled to any portion of the death benefit payable with respect to a member, but the failure to award an alternate payee a share of the member's death benefits in a qualified domestic relations order shall not negate a proper beneficiary designation on file with IPERS.

c. If an alternate payee has been awarded a share of the member's benefits and dies before the member, the entire account value shall be restored to the member unless otherwise specified in the order and in the manner required under this rule.

d. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a qualified domestic relations order.

e. The chief benefits officer, or a designee thereof, shall have exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A final determination by the chief benefits officer, or a designee thereof, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

f. A person who attempts to make IPERS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

g. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. If the member is not receiving a retirement allowance at the time a domestic relations order is received by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS.

h. IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

i. Alternate payees must notify IPERS of any change in mailing address. IPERS shall contact the alternate payee in writing at the last-known mailing address on file with IPERS, notifying the alternate payee that an application for a distribution has been received with respect to the member and providing the alternate payee with an application to be completed and returned by the alternate payee. The written notice shall provide that if the alternate payee does not return said application to IPERS within 60 days after such written materials are mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies) until a valid application is received, and IPERS shall have no liability to the alternate payee with respect to such amounts. IPERS has no duty or responsibility to search for alternate payees. If distributions have already begun at the time that an order determined by IPERS to be a qualified domestic relations order, the qualified domestic relations order shall be deemed to be the alternate payee's application to begin receiving his or her payments under the QDRO.

j. If an alternate payee's application is received less than two weeks before the member's first or next monthly payment is to be made, payments to the alternate payee shall begin the next following month.

k. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover (if eligible) elections must be received not less than two weeks in advance of the alternate payee's first payment, or IPERS will use the applicable default elections.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.39.

581—21.30(97B) Favorable experience dividend under Iowa Code section 97B.49F(2).

21.30(1) *Allocation of favorable experience.* The department shall annually allocate the system's favorable actuarial experience, if any, between the reserve account created under Iowa Code section 97B.49F(2) and the remainder of the retirement fund according to the following schedule.

Years to Amortize Unfunded Liability	Percentage to FED Reserve
Greater than 0 but less than or equal to 3	50%
Greater than 3 but less than or equal to 6	35%
Greater than 6 but less than or equal to 9	25%
Greater than 9 but less than or equal to 12	15%
Greater than 12 but less than or equal to 15	5%
Greater than 15	0%

The portion of the favorable actuarial experience that is not allocated to the FED reserve as provided above will be retained and used by the system to pay down its unfunded actuarial accrued liability, except as otherwise required by Iowa Code section 97B.49F(2)*"c."*

21.30(2) *Determination of applicable percentage.* The department shall have sole discretion to determine the applicable percentages that will be used in calculating favorable experience dividends payable under this rule, if any, subject to the actuary's certification that the resulting favorable experience dividends meet the requirements of Iowa Code section 97B.49F(2) and this rule.

a. The department's annual applicable percentage target for calculating dividends under Iowa Code section 97B.49F(2) shall be equal to the applicable percentage used in calculating dividends payable to retirees under Iowa Code section 97B.49F(1). Notwithstanding the foregoing, the department may set a greater or lesser applicable percentage for calculating dividends under this rule depending on the funding adequacy of the reserve account. In no event shall the applicable percentage exceed 3 percent.

b. In determining the annual applicable percentage, the department shall consider, but not be limited to, the value of the reserve account, distributions made from the reserve account in previous years, and the likelihood of future credits to and distributions from the reserve account. The department shall make its annual applicable percentage decisions using at least a rolling five-year period.

c. If for any year the department cannot afford an applicable percentage equal to that payable to retirees under Iowa Code section 97B.49F(1), the department may use applicable percentages in succeeding years that are higher than those used in calculating dividends for retirees under Iowa Code section 97B.49F(1) (but not in excess of 3 percent).

d. An applicable percentage in excess of the applicable percentage declared under Iowa Code section 97B.49F(1) made for catch-up purposes shall not reduce the funding of the reserve account below the amount the system's actuary determines is necessary to pay the maximum favorable experience dividend for each of the next five years, based on reasonable actuarial assumptions.

21.30(3) *Calculation of FED for individual members and beneficiaries.* A member must be retired for one full year to qualify for a favorable experience dividend. In determining whether a member has been retired one full year, the department shall count the member's first month of entitlement as the first month of the one-year period. The month in which the favorable experience dividend is payable shall be included in determining whether a member meets the eligibility requirements.

An eligible member's favorable experience dividend shall be calculated by multiplying the retirement allowance payable to the retiree, beneficiary, or contingent annuitant for the previous December, or such other month as determined by the department, by 12, and then multiplying that amount by the number of complete years the member has been retired or would have been retired if living on the date the dividend is payable, and by the applicable percentage set by the department. The number of complete years the member has been retired shall be determined by rounding down to the nearest whole year.

For otherwise eligible retired reemployed members who chose to suspend their monthly allowance under paragraph 21.19(2)*"c,"* the suspension shall have no effect on the calculation of FED.

21.30(4) *FED for eligible members and beneficiaries who die before the January distribution date.* If a member or beneficiary receiving monthly payments would have been eligible for a FED distribution in the following January but dies prior to the January distribution date, IPERS will pay a FED to the member's or beneficiary's account for the calendar year in which the death occurred. The FED shall be calculated using the monthly payments received in the calendar year the death occurred. A lump sum death benefit shall not constitute a monthly payment for purposes of determining FED eligibility or in making FED calculations.

The FED percentage applied to the monthly payments received in the calendar year of death shall be the most recently declared FED percentage in effect at the time of the FED payment to the member or beneficiary. This subrule shall not be construed to permit a FED distribution to a member where the total monthly benefits received by the member, counting the month of death, is less than 12, even if a period of 12 months has elapsed between the first payment of monthly benefits to the member and the January distribution date.

Notwithstanding the foregoing, if IPERS determines in January of a given year that, based on reasonable actuarial assumptions, there is a reasonable likelihood that a FED will not be declared for the next following January, IPERS may defer paying FED distributions under this subrule until the determination is made. If IPERS subsequently determines that no FED will be declared for a given year, no FED will be payable to persons whose death occurs during the applicable calendar year.

Effective July 1, 2000, a retiree or beneficiary eligible for a FED payment must, in addition to all other applicable requirements, be living on January 1 in order to receive a FED payment otherwise payable in that January.

21.30(5) No transfer of favorable experience to the FED reserve fund shall exceed the amount that would extend IPERS' unfunded liability amortization period to more than the applicable limit then in effect under the funding policy adopted by IPERS.

This rule is intended to implement Iowa Code section 97B.49F(2).

581—21.31(97B) Disability claim process under Iowa Code section 97B.50A. Except as otherwise indicated, this rule shall apply only to disability claims initiated under Iowa Code section 97B.50A. Except as otherwise indicated, disability claims under Iowa Code section 97B.50(2) shall be administered under rule 581—21.22(97B).

21.31(1) *Initiation of disability claim.* The disability claim process shall originate as an application to the system by the member. The application shall be forwarded to the system's designated retirement benefits officer. An application shall be sent upon request to members who qualify pursuant to Iowa Code section 97B.50A(13). The application consists of the following sections which must be completed and returned to the system's designated retirement benefits officer:

1. General applicant information.
2. Applicant's statement.
3. Employer's statement.
4. Member's assigned duties.
5. Disability/injury reports.
6. Medical information release.

21.31(2) *Preliminary processing.* Completed forms shall be returned to the disability retirement benefits officer. If the forms are not complete, they will be returned for completion. The application package shall contain copies of all relevant medical records and the names, addresses, and telephone numbers of all relevant physicians. If medical records are not included, the designated retirement benefits officer shall contact the listed physicians for copies of the files on the individual and shall request that any applicable files be sent to the medical board. In addition, IPERS may request workers' compensation records, social security records and such other official records as are deemed necessary. The application, including copies of the medical information, shall be forwarded to the medical board for review. All medical records that will be part of a member's permanent file shall be kept in locked locations separate from the member's other retirement records.

21.31(3) *Scheduling of appointments.* Upon receipt and forwarding of the application and sufficient medical records to the medical board, the disability retirement benefits officer shall establish an appointment for the applicant to be seen by the medical board in Iowa City. The member shall be notified by telephone and in writing of the appointment, and given general instructions about where to go for the examinations. The appointment for the examinations shall be no later than 60 days after the completed application, including sufficient medical records, is provided. All examinations must be scheduled and completed on the same date. The member shall also be notified about the procedures to follow for reimbursement of travel expenses and lodging. Fees for physical examinations and medical records costs shall be paid directly by IPERS pursuant to its contractual arrangements with the medical providers required to implement Iowa Code section 97B.50A.

21.31(4) *Medical board examinations.* The medical board, consisting of three physicians from the University of Iowa occupational medicine clinic and other departments as required, shall examine the member and perform the relevant tests and examinations pertaining to the difficulty the member is having.

The medical board shall submit a letter of recommendation to the system, based on its findings and the job duties supplied in the member's application, whether or not the member is mentally or physically incapacitated from the further performance of the member's duties and whether or not the incapacity is likely to be permanent. "Permanent" means that the mental or physical incapacity is reasonably expected to last more than one year. The medical board's letter of recommendation shall include a recommended schedule for reexaminations to determine the continued existence of the disability in question.

IPERS shall not be liable for any diagnostic testing procedures performed in accordance with Iowa Code section 97B.50A and this rule which are alleged to have resulted in injury to the members being examined.

The medical board shall furnish its determination, test results, and supporting notes to the system no later than ten working days after the date of the examination. The medical board may use electronic signatures in fulfilling its reporting obligations under this rule.

The medical board shall not be required to have regular meetings, but shall be required to meet with IPERS' representatives at reasonable intervals to discuss the implementation of the program and performance review.

21.31(5) *Member and employer comments.* Upon receipt by the system, the medical board's determination regarding the existence or nonexistence of a permanent disability shall be distributed to the member and to the employer for review. The member and the employer may forward to the system written statements pertaining to the medical board's findings within ten days of transmittal. If relevant medical information not considered in materials previously forwarded to the medical board is contained within such written statements, the system shall submit such information to the medical board for review and comment.

21.31(6) *Fast-track review.* IPERS' disability retirement benefits officer may refer any case to IPERS' chief benefits officer for fast-track review. The chief benefits officer may, based upon a review of the member's application and medical records, determine that the medical board be permitted to make its recommendations based solely upon a review of the application and medical records, without requiring the member to submit to additional medical examinations by, or coordinated through, the medical board.

21.31(7) *Initial administrative determination.* The medical board's letter of recommendation, test results, and supporting notes, and the member's file shall be forwarded to IPERS. Except as otherwise requested by IPERS, the medical board shall forward hospital discharge summary reports rather than the entire set of hospital records. The complete file shall be reviewed by the system's disability retirement benefits officer, who shall, in consultation with the system's legal counsel, make the initial disability determination. Written notification of the initial disability determination shall be sent to the member and the member's employer within 14 days after a complete file has been returned to IPERS for the initial disability determination.

21.31(8) *General benefits provisions.* If an initial disability determination is favorable, benefits shall begin as of the date of the initial disability determination or, if earlier, the member's last day on the payroll, but no more than six months of retroactive benefits are payable, subject to July 1, 2000, enactment date and the terms and conditions of Iowa Code section 97B.50A(13). "Last day on the payroll" shall include any form of authorized leave time, whether paid or unpaid. If a member receives short-term disability benefits from the employer while awaiting a disability determination hereunder, disability benefits will accrue from the date the member's short-term disability payments are discontinued. If an initial favorable determination is appealed, the member shall continue to receive payments pending the outcome of the appeal.

Any member who is awarded disability benefits under Iowa Code section 97B.50A and this rule shall be eligible to elect any of the benefit options available under Iowa Code section 97B.51. All such options shall be the actuarial equivalent of the lifetime monthly benefit provided in Iowa Code section 97B.50A(2) and (3).

The disability benefits established under this subrule shall be eligible for the favorable experience dividends payable under Iowa Code section 97B.49F(2).

If the award of disability benefits is overturned upon appeal, the member may be required to repay the amount already received or, upon retirement, have payments suspended or reduced until the appropriate amount is recovered.

IPERS shall, at the member's written request, precertify a member's medical eligibility through the procedures set forth in subrules 21.31(3) and 21.31(4), provided that IPERS shall have full discretion to request additional medical information and to redetermine the member's medical eligibility if the member chooses not to apply for disability benefits at the time of the precertification. IPERS shall not pay for the costs of more than one such precertification per 12-month period.

21.31(9) *In-service disability determinations.* Subject to the presumptions contained in Iowa Code section 97B.50A in determining whether a member's mental or physical incapacity arises in the actual performance of duty, "duty" shall mean:

a. For special service members other than firefighters, any action that the member, in the member's capacity as a law enforcement officer:

(1) Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) Performs in the course of controlling or reducing crime or enforcing the criminal law; or

b. For firefighters, any action that the member, in the member's capacity as a firefighter:

(1) Is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) Performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

21.31(10) *Appeal rights.* The member or the employer, or both, may appeal IPERS' initial disability determination. Such appeals must be in writing and submitted to IPERS' chief benefits officer within 30 days after the date of the system's initial notification letter. The system shall conduct an internal review of the initial disability determination, and the chief benefits officer shall notify the party who filed the appeal in writing of IPERS' final disability determination with respect to the appeal. The chief benefits officer may appoint a review committee to make nonbinding recommendations on such appeals. The disability retirement benefits officer, if named to the review committee, shall not vote on any such recommendations, nor shall any members of IPERS' legal staff participate in any capacity other than a nonvoting capacity. Further appeals shall follow the procedures set forth in rule 581—21.9(97B).

21.31(11) *Notice of abuse of disability benefits.* The system has the obligation and full authority to investigate allegations of abuse of disability benefits. The scope of the investigation to be conducted shall be determined by the system, and may include the ordering of a sub rosa investigation of a disability recipient to verify the facts relating to an alleged abuse. A sub rosa investigation shall only be considered upon receipt and evaluation of an acceptable notice of abuse. The notification must be in writing and include:

a. The informant's name, address, telephone number, and relationship to the disability recipient; and

b. A statement pertaining to the circumstances that prompted the notification, such as activities which the informant believes are inconsistent with the alleged disability.

c. Anonymous calls shall not constitute acceptable notification.

IPERS may employ such investigators and other personnel as may be deemed necessary, in IPERS' sole discretion, to carry out this function. IPERS may also, in its sole discretion, decline to carry out such investigations if more than five years have elapsed since the date of the disability determination.

21.31(12) *Qualification for social security or railroad retirement disability benefits.* Upon qualifying for social security or railroad retirement disability benefits, a member may contact the system to have the member's disability benefits calculated under Iowa Code section 97B.50(2). The election to stop having benefits calculated under Iowa Code section 97B.50A and to start having benefits calculated under Iowa Code section 97B.50(2) must be in writing on forms developed or approved by the system, is irrevocable, and must be made within 60 days after the member receives written notification of eligibility for disability benefits from social security or railroad retirement and has commenced receiving such payments.

21.31(13) *Reemployment/income monitoring.* A member who retires under Iowa Code section 97B.50A and this rule shall be required to supply a copy of a complete set of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if such records are not timely provided.

Only wages and self-employment income shall be counted in determining a member's reemployment comparison amount, as adjusted for health care coverage for the member and the member's dependents.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS' actuary.

This rule is intended to implement Iowa Code section 97B.50A.

581—21.32(97B) Qualified benefits arrangement. This rule establishes a separate unfunded qualified benefits arrangement (QBA) as provided for in Iowa Code section 97B.49I. This arrangement is established for the sole purpose of enabling IPERS to continue to apply the same formula for determining benefits payable to all employees covered by IPERS, including those whose benefits are limited by Section 415 of the Internal Revenue Code.

21.32(1) IPERS shall administer the QBA. IPERS has full discretionary authority to determine all questions arising in connection with the QBA, including its interpretation and any factual questions arising under the QBA. Further, IPERS has full authority to make modifications to the benefits payable under the QBA as may be necessary to maintain its qualification under Section 415(m) of the Internal Revenue Code.

21.32(2) All members, retired members, and beneficiaries of IPERS are eligible to participate in the QBA if their benefits would exceed the limitations imposed by Section 415 of the Internal Revenue Code. Participation is determined for each plan year, and participation shall cease for any plan year in which the benefit of a retiree or beneficiary is not limited by Section 415 of the Internal Revenue Code.

21.32(3) On and after the effective date of the QBA, IPERS shall pay to each eligible retiree and beneficiary a supplemental pension benefit equal to the difference between the retiree's or beneficiary's monthly benefit otherwise payable from IPERS prior to any reduction or limitation because of Section 415 of the Internal Revenue Code and the actual monthly benefit payable from IPERS as limited by Section 415. IPERS shall compute and pay the supplemental pension benefits in the same form, at the same time, and to the same persons as such benefits would have otherwise been paid as a monthly pension under IPERS except for said Section 415 limitations.

21.32(4) IPERS may consult its actuary to determine the amount of benefits that cannot be provided under IPERS because of the limitations of Section 415 of the Internal Revenue Code, and the amount of contributions that must be made to the QBA rather than to IPERS. Fees for the actuary's service shall be paid by the applicable employers.

21.32(5) Contributions shall not be accumulated under this QBA to pay future supplemental pension benefits. Instead, each payment of contributions by the applicable employer that would otherwise be made to IPERS shall be reduced by the amount necessary to pay supplemental pension benefits and administrative expenses of the QBA. The employer shall pay to this QBA the contributions necessary to pay the required supplemental pension payments, and these contributions will be deposited in a separate fund which is a portion of the qualified plan established and administered by IPERS. This fund is intended to be exempt from federal income tax under Sections 115 and 415(m) of the Internal Revenue Code. IPERS shall pay the required supplemental pension benefits to the member out of the employer contributions so transferred. The employer contributions otherwise required under the terms of Iowa Code sections 97B.11, 97B.49B and 97B.49C shall be divided into those contributions required to pay supplemental pension benefits hereunder, and those contributions paid into and accumulated in the IPERS trust fund to pay the maximum benefits permitted under Iowa Code chapter 97B. Employer contributions made to provide supplemental pension benefits shall not be commingled with the IPERS trust fund. The supplemental pension benefit liability shall be funded on a plan-year-to-plan-year basis. Any assets of the separate QBA fund not used for paying benefits for a current plan year shall be used, as determined by IPERS, for the payment of administrative expenses of the QBA for the plan year.

21.32(6) A member cannot elect to defer the receipt of all or any part of the payments due under this QBA.

21.32(7) Payments under this rule are exempt from garnishment, assignment, attachment, alienation, judgments, and other legal processes to the same extent as provided under Iowa Code section 97B.39.

21.32(8) Nothing herein shall be construed as providing for assets to be held in trust or escrow or any form of asset segregation for members, retirees, or beneficiaries. To the extent any person acquires the right to receive benefits under this QBA, the right shall be no greater than the right of any unsecured general creditor of the state of Iowa.

21.32(9) This QBA is a portion of a governmental plan as defined in Section 414(d) of the Internal Revenue Code, is intended to meet the requirements of Internal Revenue Code Sections 115 and 415(m), and shall be so interpreted and administered.

21.32(10) Amounts deducted from employer contributions and deposited in the separate QBA fund shall not reduce the amounts that are to be credited to employer contribution accounts under Iowa Code sections 97B.11, 97B.49B and 97B.49C.

This rule is intended to implement Iowa Code section 97B.49I.

581—21.33(17A,97B) Benefits advisory committee.

21.33(1) *Scope.* This rule shall govern the conduct of business by the benefits advisory committee (BAC) of the Iowa public employees' retirement system. Subrules 21.33(2) to 21.33(5) describe the general structure and duties of the permanent BAC which is created effective July 1, 2002. Subrules 21.33(6) to 21.33(14) describe the structure and self-governance rules for the transition BAC, which is created effective July 1, 2001, and is dissolved by July 31, 2002.

21.33(2) *Purpose of the permanent BAC.* The permanent BAC shall be an advisory committee that serves as a channel for employers and employees to help formulate policies and recommendations regarding the provision of benefits and services to members of the system.

21.33(3) *Membership of the permanent BAC.* The permanent BAC shall be comprised of representatives of constituent groups concerned with the system and shall include representatives of employers, active members, and retired members. In addition, the director of the department of personnel and a member of the public selected by the voting members of the committee shall serve as members of the permanent BAC.

21.33(4) *Voting members of the permanent BAC.* The permanent BAC shall have nine voting members. Except as otherwise indicated, the voting members shall be elected by the members of the permanent BAC from the membership of the permanent BAC. Four members shall represent employers, four shall represent active and retired members of the system, and one shall be a citizen who is not a member of the system and who is elected by the other eight voting members of the permanent BAC.

a. The members that represent employers shall be elected as follows: one shall be the director of the department of personnel, one shall be a representative of a constituent group representing cities, one shall be a representative of a constituent group representing counties, and one shall be a representative of a constituent group representing local school districts.

b. The members that represent active and retired members shall be elected as follows: one shall be a representative of a constituent group that represents teachers. The other three voting members shall be elected pursuant to rules adopted pursuant to the recommendations of the transition BAC described in subrules 21.33(6) to 21.33(13) below.

21.33(5) *Duties of the permanent BAC.* The permanent BAC shall review the benefits and services provided to members under Iowa Code chapter 97B and, through its voting members, make recommendations about said benefits and services to the system and to the general assembly; participate in annual performance evaluations of the chief benefits officer; and, through the system member representatives appointed by the governor under 2001 Iowa Acts, Senate File 497, section 12(4), participate in the activities of the board.

At least every two years, the BAC shall review the benefits and services provided to members; and the voting members shall make recommendations to the system, the governor, and the general assembly concerning the benefits and services provided to members and the system's benefits policies and benefits goals.

21.33(6) *Transition benefits advisory committee.* Effective July 1, 2001, a transition BAC is created. The purpose of the transition BAC is to establish the rules to be adopted by the division governing the BAC and any other provisions deemed necessary for establishing the BAC. The transition BAC may also consult with system staff and make recommendations on other matters. The transition BAC shall be composed of 15 members appointed as follows.

a. *Voting members.* One representative appointed by each of the following: the Iowa State Education Association, the Iowa Association of Community College Trustees, the School Administrators of Iowa, the Iowa Association of School Boards, the Retired School Personnel Association, the State Police Officers Council, the director of the Department of Personnel, the IPERS' Improvement Association, the American Federation of State, County, and Municipal Employees, the Iowa State Sheriffs' and Deputies' Association, the Iowa State Association of Counties, the Iowa League of Cities, the Iowa Association of Chiefs of Police and Peace Officers, a member of the public with substantial pension benefits experience as selected by the Chief Benefits Officer of IPERS, and the Department of Management.

b. *Membership.* The transition BAC may add additional voting representatives of member organizations provided that a majority of the current members concur with each membership request. Organizations representing employers and employees desiring membership shall submit a written request to the chairperson of the transition BAC stating the reasons why its membership application request should be accepted by the transition BAC. The chairperson may request additional information from the requesting organization if necessary. The transition BAC may set a maximum limit on membership.

c. *Appointment of representatives.* A member organization shall appoint one of its members to serve as the representative on the transition BAC. Member organizations shall provide in writing to the chairperson the name of the representative, address, telephone number, and other information required by the chairperson.

d. *Attendance.* Any voting member representative shall be deemed to have submitted a resignation from participation in the transition BAC if either of the following events occur:

(1) The representative does not attend three or more consecutive regular meetings.

(2) The representative attends less than one-half of the regular meetings of the transition BAC between July 1, 2001, and July 31, 2002. This provision applies only to a period beginning on or after the date when the person assumes the position of representative for an organization.

In the event that a representative is deemed to have resigned under this provision, the chairperson shall immediately notify the representative's organization and require the appointment of a different representative within 30 days. Should that organization fail to notify the chairperson in writing of the organization's new representative within this time frame, that organization shall be deemed to have withdrawn from further participation in the transition BAC.

e. *Voting rights.* No member organization shall be permitted to designate a substitute voting representative to cast the vote of a member organization at a meeting in the event the named representative cannot attend the meeting.

f. *Final rules.* The members of the transition BAC shall, at least 30 days before July 1, 2002, issue a report to IPERS concerning the rules of governance for the permanent BAC. The rules of governance shall include provisions governing the selection of members of the permanent BAC, the selection of its membership and its voting members, and any other provision deemed necessary for establishing the permanent BAC consistent with the requirements of 2001 Iowa Acts, Senate File 497, section 13.

21.33(7) *Time and place of transition BAC meetings.* The transition BAC shall meet at least bimonthly, at the call of the chairperson, upon the written request by the chief benefits officer, or upon written request of a majority of the members of the transition BAC. The chairperson shall establish the date of all other meetings, and provide notice of all meeting dates, locations, and agenda.

a. *Call of the chairperson.* The chairperson shall notify the transition BAC of the date, time, and location of all meetings and state the agenda.

b. *Request for meetings by the chief benefits officer.* The chairperson shall schedule a meeting upon the receipt of a written request from the chief benefits officer. The request shall state the reason for the meeting and the proposed agenda.

c. *Requests for meetings by the transition BAC.* The chairperson shall schedule a meeting upon the receipt of a written request from a majority of the members of the transition BAC. The request shall state the reason for the meeting and the proposed agenda.

d. *Place of meetings.* Meetings of the transition BAC will generally be held at the IPERS building, 7401 Register Drive, Des Moines, Iowa. The transition BAC may meet at other locations. The meeting place and time will be specified in the agenda.

21.33(8) *Notification of transition BAC meetings.*

a. *Form of notice.* Notice of meetings is given by posting and distributing the agenda. The agenda lists the time, date, place, and topics to be discussed at the meeting.

b. *Posting of transition BAC agenda.* The agenda for each meeting will be posted at the system's main office and in the office of the department of personnel.

c. *Distribution of agenda.* Agenda shall be provided to each member of the transition BAC and anyone who files a request with the chairperson. The request should state whether the agenda for a particular meeting is desired, or whether the agendas for all meetings are desired.

d. *Amendments to agenda.* Any amendments to the agenda after posting and distribution under 21.33(8)*"b"* and *"c"* will be posted, but not distributed. The amended agenda will be posted at least 24 hours prior to the meetings unless, for good cause, notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.

e. *Supporting material.* Written materials provided to the transition BAC with the agenda may be examined and copied. Copies of the materials may be distributed at the discretion of the chairperson to persons requesting the materials. The chairperson may require a fee to cover the reasonable cost to the agency to provide the copies.

21.33(9) *Attendance and participation by the public.*

a. *Attendance.* All meetings of the transition BAC are open to the public. The transition BAC may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5.

b. *Participation.*

(1) Items on agenda. Persons who wish to address the transition BAC on a matter on the agenda should notify the chairperson at least three days before the meeting. Presentations to the transition BAC may be made at the discretion of the chairperson.

(2) Items not on agenda. Iowa Code section 21.4 requires the transition BAC to give notice of its proposed agenda. Therefore, the transition BAC discourages persons from raising matters not on the agenda. Persons who wish to address the transition BAC on a matter not on the agenda should file a request with the chairperson to place the matter on the agenda of a subsequent meeting.

c. *Coverage by press.* Cameras and recording devices may be used during meetings provided they do not interfere with the orderly conduct of the meeting. The chairperson may order the use of these devices be discontinued if they cause interference and may exclude those persons who fail to comply with that order.

21.33(10) *Quorum and voting requirements for the transition BAC.*

a. *Quorum.* A majority of the voting members of the transition BAC constitutes a quorum.

b. *Majority voting.* A quorum of the transition BAC must be present at the time any vote is taken. In order for a motion to pass or for the transition BAC to conduct business, a majority of the full voting membership must vote in favor of the motion or other business matter.

c. *Voting procedures.* The chairperson shall rule as to whether the vote will be by voice vote or roll call. A roll call vote shall be taken anytime a voice vote is not unanimous. Minutes of the transition BAC shall indicate the vote of each member.

21.33(11) *Minutes, transcripts and recording of transition BAC meetings.*

a. *Recordings.* The chairperson shall record by mechanized means each meeting and shall retain the recording for at least one year. Recordings of closed sessions shall be sealed and retained at least one year.

b. *Transcripts.* Transcripts of meetings will not routinely be prepared. The chairperson will have transcripts prepared upon receipt of a request for a transcript and payment of a fee to cover its cost.

c. *Minutes.* The chairperson shall record minutes of each meeting. Minutes shall be reviewed, approved, and maintained by the transition BAC. The approved minutes shall be signed by the chairperson.

21.33(12) *Officers of transition BAC and election.*

a. *Officers.* The officers of the transition BAC are the chairperson and vice chairperson.

b. *Elections.* Election of officers shall take place at the first transition BAC meeting held on or after July 1, 2001. If an officer does not serve out the elected term, a special election shall be held at the first meeting held after notice is provided to the transition BAC to elect a member to serve out the remainder of the term.

21.33(13) *Terms of transition BAC members.* Except for the director of the department of personnel, the members of the transition BAC shall serve from July 1, 2001, to July 31, 2002, or until replaced by the appointing authority or until the transition BAC is dissolved by a vote of its membership after completing its statutory purpose prior to July 31, 2002. Effective no later than July 31, 2002, the transition BAC shall be dissolved.

21.33(14) *Expenses of transition BAC members.* Expenses of voting members of the transition BAC shall be reimbursed if provided by law.

This rule is intended to implement Iowa Code chapter 97B and 2001 Iowa Acts, Senate File 497, sections 13, 20 and 24.

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
[Filed 9/1/77, Notices 7/27/77, Amended Notice 8/10/77—published 9/21/77, effective 10/26/77]*
[Filed 3/15/78, Notice 2/8/78—published 4/5/78, effective 5/10/78]
[Filed 7/19/79, Notice 6/13/79—published 8/8/79, effective 9/12/79]
[Filed 11/19/80, Notice 9/3/80—published 12/10/80, effective 1/14/81]
[Filed 10/8/82, Notice 9/1/82—published 10/27/82, effective 12/2/82]
[Filed 8/9/83, Notice 3/30/83—published 8/31/83, effective 10/5/83]
[Filed 8/24/84, Notice 7/4/84—published 9/12/84, effective 10/17/84]
[Filed 1/11/85, Notice 9/26/84—published 1/30/85, effective 3/6/85]
[Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]
[Filed 4/17/87, Notice 3/11/87—published 5/6/87, effective 6/10/87]
[Filed 2/18/88, Notice 1/13/88—published 3/9/88, effective 4/13/88]
[Filed emergency 7/1/88—published 7/27/88, effective 7/1/88]
[Filed 9/2/88, Notice 7/27/88—published 9/21/88, effective 10/26/88]
[Filed 9/29/89, Notice 8/23/89—published 10/18/89, effective 12/22/89]
[Filed 2/1/90, Notice 12/13/89—published 2/21/90, effective 3/30/90]
[Filed emergency 6/27/90—published 7/25/90, effective 7/1/90]
[Filed 8/31/90, Notice 7/25/90—published 9/19/90, effective 10/24/90]
[Filed 2/14/91, Notice 1/9/91—published 3/6/91, effective 4/12/91]
[Filed emergency 7/1/91—published 7/24/91, effective 7/1/91]
[Filed emergency 7/2/92—published 7/22/92, effective 7/2/92]
[Filed 2/10/93, Notice 7/22/92—published 3/3/93, effective 4/7/93]
[Filed 10/22/93, Notice 9/15/93—published 11/10/93, effective 12/15/93]
[Filed emergency 3/16/95—published 4/12/95, effective 3/16/95]
[Filed 6/16/95, Notice 5/10/95—published 7/5/95, effective 8/9/95]
[Filed emergency 8/7/95 after Notice 6/21/95—published 8/30/95, effective 8/9/95]
[Filed emergency 5/3/96—published 5/22/96, effective 5/3/96]
[Filed emergency 7/26/96—published 8/14/96, effective 7/26/96]
[Filed emergency 11/27/96—published 12/18/96, effective 11/27/96]
[Filed 2/20/97, Notice 8/14/96—published 3/12/97, effective 4/16/97]
[Filed 2/20/97, Notice 12/18/96—published 3/12/97, effective 4/16/97]
[Filed emergency 8/4/97—published 8/27/97, effective 8/4/97]
[Filed 10/31/97, Notice 8/27/97—published 11/19/97, effective 12/24/97]
[Filed emergency 6/11/98—published 7/1/98, effective 6/11/98]
[Filed 9/17/98, Notice 7/1/98—published 10/7/98, effective 11/11/98]
[Filed emergency 11/25/98—published 12/16/98, effective 11/25/98]
[Filed 4/29/99, Notice 12/16/98—published 5/19/99, effective 6/23/99]
[Filed 5/14/99, Notice 3/10/99—published 6/2/99, effective 7/7/99]
[Filed emergency 6/11/99—published 6/30/99, effective 6/11/99]
[Filed 9/17/99, Notice 6/30/99—published 10/6/99, effective 11/10/99]
[Filed emergency 2/18/00—published 3/8/00, effective 2/18/00]
[Filed emergency 6/22/00—published 7/12/00, effective 6/22/00]
[Filed 9/15/00, Notice 7/12/00—published 10/4/00, effective 11/8/00]
[Filed emergency 12/21/00—published 1/10/01, effective 12/21/00]

*Effective date of subrule 8.5(1) delayed by the Administrative Rules Review Committee 70 days from 10/26/77.

[Filed emergency 3/2/01—published 3/21/01, effective 3/2/01]
[Filed emergency 3/22/01—published 4/18/01, effective 3/22/01]
[Filed 3/22/01, Notice 1/10/01—published 4/18/01, effective 5/23/01]
[Filed 4/26/01, Notice 3/21/01—published 5/16/01, effective 6/20/01]
[Filed emergency 8/16/01—published 9/5/01, effective 8/16/01]
[Filed emergency 10/26/01—published 11/14/01, effective 10/26/01]