

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

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CHAPTER 1 ORGANIZATION

[Prior to 1/7/04, see 581—21.1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—1.1(97B) Organization. The agency shall administer the retirement system created by Iowa Code chapter 97B. Specific powers and duties of the agency, CEO, board, committee, and agency staff are set forth in Iowa Code chapter 97B and these administrative rules.

Operational units within the agency shall develop and administer policies and procedures governing retirement system programs, including accounting functions for the collection of funds from employers and employee members; disbursement of retirement benefits, death benefits, lump sum payments, and disability retirement benefits; training to employers and subsequent review of employer records for compliance with Iowa Code chapter 97B, rules and policies; preparation and release of informational newsletters and the annual report; and investment of funds contributed to the retirement system by employers and employee members. The retirement system is also the state administrator to the federal Social Security Administration pursuant to Iowa Code chapter 97C.

[ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—1.2(97B) Definitions. Unless otherwise prescribed by federal or state regulations, the terms used in this chapter shall have the following meanings:

“*Agency*” means the Iowa public employees’ retirement system (IPERS) created as an independent agency within the executive branch of state government to administer Iowa Code chapter 97B.

“*Board*” means the IPERS’ investment board as created in Iowa Code section 97B.8A.

“*Chief benefits officer*” means the person employed by IPERS’ chief executive officer, following consultation with the committee, to administer benefits programs and other member services provided under the retirement system.

“*Chief executive officer*” means the administrator of the agency appointed pursuant to Iowa Code section 97B.3 and whose term shall be determined pursuant to Iowa Code section 97B.3.

“*Chief investment officer*” means the person employed by IPERS’ chief executive officer, following consultation with the board, to administer the investment program of the retirement system.

“*Committee*” means the benefits advisory committee created pursuant to Iowa Code section 97B.8B.

“*Internal Revenue Code*” means the Internal Revenue Code as defined in Iowa Code section 422.3.

“*IPERS*” means the agency or the system as the context requires.

“*System*” means the Iowa public employees’ retirement system created pursuant to Iowa Code chapter 97B.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—1.3(97B) Administration. The chief executive officer, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C. The chief executive officer shall execute contracts on behalf of IPERS and shall, after consultation with the board and other agency staff, establish and administer the budget and such other duties as are required or permitted in Iowa Code section 97B.4. The chief executive officer may make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B and may obtain, as necessary, the specialized services of individuals or organizations on a contract-for-service basis. The chief executive officer shall be the agency’s statutory designee with respect to rule-making power.

1.3(1) Location. IPERS’ headquarters is located at 7401 Register Drive, Des Moines, Iowa. General correspondence, inquiries, requests for information or assistance, complaints, or petitions shall be addressed to: Chief Executive Officer, Iowa Public Employees’ Retirement System, P.O. Box 9117, Des Moines, Iowa 50306-9117.

1.3(2) Business hours. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding officially designated holidays.

[ARC 6949C, IAB 3/8/23, effective 4/12/23]

These rules are intended to implement Iowa Code chapter 97B.

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CHAPTER 2
INVESTMENT BOARD
[Prior to 1/7/04, see 581—21.1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—2.1(97B) Investment board. The principal place of business of the board is IPERS' headquarters, 7401 Register Drive, Des Moines, Iowa.

1. Effective July 1, 2002, the board shall be the trustee of the retirement fund. The board shall meet annually, and may meet more often, to review its investment policies.

2. At the first meeting in each fiscal year, the voting members shall elect a chair and vice chair. Future meeting dates for the year shall also be decided at the first meeting. Advance notice of time, date, tentative agenda, and place of each meeting shall be given in compliance with Iowa Code chapter 21. All meetings of the board are open to the public and shall be held in accordance with Robert's Rules of Order, Newly Revised.

3. Parties wishing to present items for the agenda of the next meeting shall file a written request with the board chair at least five business days prior to the meeting.

4. Four members eligible to vote shall constitute a quorum. A simple majority vote of the full voting membership shall be the vote of the board.

5. Members of the board shall file financial statements pursuant to Iowa Code section 68B.35(2) "e."

6. In the event that it should become necessary to fill the chief investment officer position, the board may consult with, and make hiring recommendations to, the chief executive officer that are consistent with the requirements of Iowa Code chapter 8A, subchapter IV.

7. The board shall set the salary of the CEO pursuant to Iowa Code section 97B.3.

8. The board shall participate in the annual performance evaluation of the chief investment officer.

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—2.2(97B) Group trusts. Assets of the fund may be invested in a tax-exempt group trust that has been determined by the Internal Revenue Service to be a pooled fund arrangement pursuant to Revenue Ruling 81-100, as modified by Revenue Rulings 2004-67 and 2011-1, and that is operated or maintained exclusively for the commingling and collective investment of moneys. In such case, the terms of the group trust shall be adopted as part of this plan.

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CHAPTER 3
BENEFITS ADVISORY COMMITTEE
[Prior to 1/7/04, see 581—21.33]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—3.1(97B) Benefits advisory committee.

3.1(1) *Scope.* These rules shall govern the conduct of business by the IPERS benefits advisory committee (BAC) pursuant to Iowa Code section 97B.8B.

3.1(2) *Purpose.* The 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.

3.1(3) *Governmental body.* The BAC is a governmental body as defined by Iowa Code section 21.2(1).

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.2(97B) Membership organizations and representatives.

3.2(1) The BAC membership shall number no less than 9 and no more than 14, and the composition of the BAC must at all times meet the specific membership and voting requirements of Iowa Code section 97B.8B. A current list of organizations, appointees, terms and voting status is maintained on IPERS' Internet site.

3.2(2) Appointment of BAC representatives. Each membership organization shall appoint a representative to serve on the BAC. All BAC representatives shall provide in writing to IPERS or the chairperson the name, address, and telephone number of and other information about the representative as required by IPERS or the chairperson. The BAC shall not entertain petitions disputing a membership organization's choice of its representative. In addition, a citizen representative who is not a member of IPERS will also serve, pursuant to subrule 3.3(3).

3.2(3) Attendance. Any representative shall be deemed to have submitted a resignation from participation in the BAC if either of the following events occurs:

a. The representative does not attend three or more consecutive regularly scheduled meetings.

b. The representative attends fewer than one-half of the regularly scheduled meetings of the BAC each fiscal year.

This provision applies only to a period beginning on or after the date when the person assumes the position of representative. 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.

If a representative is unable to attend a meeting, an alternate designated by the membership organization may attend the meeting. Attendance by an alternate shall not relieve the regular representative of the responsibility of attendance at regularly scheduled meetings.

3.2(4) Replacement of membership organizations due to nonparticipation. If a membership organization, after receiving written notice from the BAC under subrule 3.2(3), fails to appoint a new representative to serve on the BAC, the chairperson shall send a second written notice to that membership organization again requiring that the organization appoint its representative within the next 30 days. The notice shall further state that, in order for the appointment to become effective, the newly appointed representative must also attend the next regularly scheduled BAC meeting. The attendance of an alternative representative at said meeting shall not fulfill the requirements of this subrule.

If the organization does not timely appoint a new representative, or its newly appointed representative does not attend the next regularly scheduled BAC meeting, the organization shall be deemed to have relinquished its seat on the BAC.

When a membership organization has relinquished its seat on the BAC for nonparticipation, the subcommittee on membership shall, as soon as practicable, meet to consider a replacement organization. If a seat relinquished for nonparticipation was not filled and the subcommittee on membership determines that the composition of the BAC would continue to satisfy subrule 3.2(1), the subcommittee on

membership may recommend any type of qualified interested organization as a replacement, or it may recommend leaving the seat open. However, if the subcommittee determines that the composition of the BAC would not satisfy subrule 3.2(1) if a seat relinquished for nonparticipation was not filled, the subcommittee must recommend a replacement, and the replacement must be one that permits the BAC to meet the requirements of subrule 3.2(1).

Any qualified, interested organization may file a petition for consideration as a replacement membership organization. The subcommittee shall review all such petitions, if any, which have been filed after the most recent formal review under this rule. The subcommittee may also solicit petitions for BAC membership from any qualified interested organization.

The subcommittee shall make its recommendation for a replacement membership organization, if any, at the next regularly scheduled BAC meeting or as soon as practicable. The BAC, by a majority vote of the nine voting representatives, shall approve or reject the subcommittee's recommendation.

If the subcommittee's recommendation is rejected and the seat must be filled, the subcommittee shall reconvene as soon as practicable and the foregoing process shall be repeated until such time as the subcommittee's recommendation is approved.

In order to be considered for BAC membership under this rule, an organization must be a "qualified, interested organization." "Qualified, interested organization" means a unit of the executive branch or a formally organized corporation or association representing a viable and identifiable group of covered employers or covered employees as determined by the BAC in its sole discretion.

This subrule shall not be construed to affect the BAC positions reserved for the director of the department of administrative services or the position reserved for a citizen who is not a member of IPERS.

3.2(5) Replacement of current membership organizations other than through nonparticipation. A qualified, interested organization that wishes to replace an existing membership organization may petition the BAC to do so. Such petitions for BAC membership must be submitted in writing to the BAC as set forth in this rule and will be considered according to the schedule established below.

An organization petitioning for membership on the BAC must include the official name of the organization, a description of its organizational structure, the number of employers or employees represented, a description of prior activities by that organization regarding IPERS issues, and a brief explanation of the reasons why the organization should be selected as a replacement organization. The petition should also include the name and contact information for the organization's proposed representative and the name and contact information of the person completing the petition.

A formal review of petitions under this rule shall be conducted every three years. IPERS shall provide 60 days' prior written notice of the next formal review session to members who have indicated in writing that they wish to file such a petition. IPERS will provide 60 days' prior written notice of the next formal review to all other potential petitioners through its Internet site.

The subcommittee chosen to make recommendations regarding the replacement of a current membership organization shall not include the individual representing that organization on the BAC. However, any membership organization whose seat is being contested under this rule shall have the opportunity to submit written materials and make oral presentations to the subcommittee in support of its continued existence as a BAC membership organization.

For each formal review, the subcommittee on membership shall review all petitions for membership, if any, that have been filed after the most recent formal review under this rule. The subcommittee may also solicit petitions for BAC membership from any qualified, interested organization.

When one or more qualified, interested organizations have filed a petition to replace a current membership organization, the subcommittee on membership shall meet at least 30 days prior to the next formal review session to determine whether to recommend approval or rejection.

If the subcommittee on membership determines that the composition of the BAC would continue to satisfy subrule 3.2(1) regardless of the type of qualified, interested organization recommended, the subcommittee on membership may recommend any type of qualified, interested organization for a seat being sought under this rule.

However, if the subcommittee on membership determines that the composition of the BAC will only continue to satisfy subrule 3.2(1) if a current membership organization's seat is filled by a certain specific

type of organization, the subcommittee on membership must limit its recommendations for approval to the types of organizations that would permit the composition of the BAC to continue to satisfy subrule 3.2(1).

The subcommittee shall present its recommendation regarding the replacement of a current membership organization at the next regularly scheduled formal review of petitions under this rule. The BAC, by a majority vote of the nine voting representatives, shall approve or reject the subcommittee's recommendation.

If the subcommittee determines that two qualified, interested organizations are competing for the same seat, the subcommittee shall, in its sole discretion, evaluate the competing organizations and make a recommendation that meets the requirements of this rule and takes into consideration the following factors: the number of employers or employees represented, the diversity of the representation, the degree to which the applicable constituents already have BAC representation through other BAC membership organizations, prior involvement in BAC activities, and prior activities as an IPERS advocate in other forums.

If the BAC votes to replace a current membership organization that holds a voting seat with a new membership organization, the replacement membership organization shall complete the remainder of the term for that voting seat. Otherwise, the new membership organization shall be seated as a nonvoting organization. Thereafter, if a vacancy occurs in a voting seat and the new membership organization is qualified to fill that voting seat, the new membership organization may compete for the vacant voting seat.

An organization that petitions for a seat under this rule and after a formal review is not selected must resubmit its petition for membership in order to receive consideration for a seat during the next scheduled formal review.

This subrule shall not be construed to affect the BAC position reserved for the director of the department of administrative services or the position reserved for a citizen who is not a member of IPERS.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.3(97B) Voting representatives. The BAC shall have nine voting representatives. Four shall represent employers, four shall represent members of the system, and one shall be a citizen who is not a member of IPERS.

3.3(1) Employer voting representatives. One voting representative shall be the director of the department of administrative services. The remaining employer voting representatives shall be elected by the full membership of the BAC as follows: one shall be a representative of an employer group representing cities, one shall be a representative of an employer group representing counties, and one shall be a representative of an employer group representing local school districts.

3.3(2) Employee voting representatives. One voting representative shall be elected by the full membership of the BAC from a membership organization that represents teachers. The other three voting representatives who represent members of the system shall be elected by the full membership of the BAC, with no more than one being the representative of an employee group that solely represents the public safety protection classes.

3.3(3) Citizen representative. The citizen representative shall be elected by the eight voting representatives who serve under subrules 3.3(1) and 3.3(2).

3.3(4) Voting rights. A membership organization shall be permitted to designate a substitute voting representative to cast the vote of the membership organization at a meeting in the event that the named representative cannot attend the meeting. No membership organization shall have more than one vote on a matter brought before the BAC.

3.3(5) Terms of voting representatives. The term of each voting representative shall be three years, beginning and ending as provided in Iowa Code section 97B.8B, except as otherwise indicated in this subrule.

The terms of the voting representatives shall be staggered, so as to maintain an acceptable level of continuity and experience on the BAC.

If a voting representative resigns or is replaced by the appointing organization, the appointing organization shall appoint a successor who shall be a voting member for the remainder of the term in question.

If an organization that is not currently a membership organization successfully petitions to replace a membership organization that is represented by a voting representative, the representative of the replacement membership organization shall complete the remainder of the term of the voting representative in question.

3.3(6) *Quorum, voting requirements and voting procedures.*

- a. Quorum.* Five voting representatives of the BAC constitute a quorum.
- b. Voting requirements.* A quorum of the BAC must be present, whether the representatives are attending in person or remotely, at the time any vote is taken.
- c. Voting procedures.* The chairperson shall rule as to whether the vote will be by voice or roll call. A roll-call vote shall be taken anytime a voice vote is not unanimous. Minutes of the BAC shall indicate the vote of each voting member if a roll-call vote is taken.

3.3(7) *Officers and elections.*

- a. Officers.* The officers of the BAC are the chairperson and vice chairperson and shall be elected by a vote of the full membership of the BAC.
- b. Elections.* Election of officers shall take place at the first BAC meeting held at the beginning of each fiscal year. If an officer does not serve out the elected term, a special election shall be held at the first meeting after notice is provided to the BAC to elect a representative to serve out the remainder of the term.

[ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—3.4(97B) Duties. The BAC shall review and advise on the following matters insofar as they impact benefits and services provided to members and employers under Iowa Code chapter 97B: overall plan design, benefits policy and goals, budget, benchmarking and quality assessment efforts, research and strategic planning. The BAC shall also participate in annual performance evaluations of the chief benefits officer and, when that position becomes vacant, assist the chief executive officer in the process of selecting a replacement. In addition, the BAC shall recommend to the governor at least two nominees for each vacant position on the investment board reserved for active or retired members of the system. The chairperson of the BAC shall solicit nominations for such vacancies from the entire BAC membership and, through a meeting of the BAC, select the names to be forwarded to the governor.

At least every two years, the BAC shall review the benefits and services provided to members; and the voting representatives 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. All of the membership of the BAC, including nonvoting representatives, may have input into formulating such recommendations.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—3.5(97B) Meetings. The BAC shall meet at least quarterly, or at the call of the chairperson, or upon the written request by the chief executive officer. The chairperson shall establish the dates of all regularly scheduled meetings. Unless otherwise specified in the agenda, meetings will be held at IPERS' headquarters, 7401 Register Drive, Des Moines, Iowa.

3.5(1) *Meeting agenda and minutes.*

- a. Meeting agenda.* The agenda for each meeting will be posted at IPERS' headquarters at least 24 hours prior to the meeting unless, for good cause, notice is impossible or impractical, in which case as much notice as is reasonably possible will be given.
- b. Minutes.* Minutes shall be reviewed and approved by the BAC and maintained by IPERS.

3.5(2) *Attendance and participation by the public.*

- a. Attendance.* All meetings of the BAC are open to the public and shall be held in accordance with Robert's Rules of Order, Newly Revised. The BAC may exclude the public from portions of the meeting in accordance with Iowa Code section 21.5 (closed session).
- b. Participation.*
 - (1) Items on agenda. Persons who wish to address the BAC on a matter on the agenda should notify IPERS or the chairperson in writing at least 24 hours prior to the meeting.
 - (2) Items not on agenda. Persons who wish to address the BAC on a matter not on the agenda should notify IPERS or the chairperson in writing at least five days prior to the 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.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code chapter 97B.

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CHAPTER 4 EMPLOYERS

[Prior to 6/9/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—4.1(97B) Covered employers.

4.1(1) Definition. All public employers in the state of Iowa, its cities, counties, townships, agencies, political subdivisions, instrumentalities and public schools are required to participate in IPERS. For the purposes of these rules, the following definitions also apply:

a. "Political subdivision" means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: cities, municipalities, counties, townships, schools and school districts, drainage and levee districts, and utilities.

b. "Instrumentality of the state or a political subdivision" means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

c. "Public agency" means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

d. Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Covered employers include, but are not limited to: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions.

An entity not already reporting to IPERS which meets the conditions for becoming an IPERS-covered employer shall immediately contact IPERS to provide notice which includes the name and address of the entity and other information required by IPERS. If, after review of this information, IPERS determines that the entity should be enrolled as a covered employer, IPERS will notify the entity and provide an IPERS account number for the entity to use when submitting information. IPERS shall not be required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the effective date for which IPERS actually approves the entity for coverage, unless the employer agrees to pay the full actuarial cost of providing such benefits.

An employer may request a revised beginning date for its status as a covered employer. The employer must submit acceptable proof to IPERS that its status as a covered employer began earlier than the date previously provided. In such case, the employer shall provide IPERS coverage retroactively to all employees providing services to that employer on or after the revised beginning date and shall pay all actuarial costs.

4.1(2) Name change. Any employer which has a change of name, address, title of the employer, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall provide IPERS with the following information:

- a.* Former name;
- b.* Former address;
- c.* IPERS account number;
- d.* New name, address, and telephone number of the employer;
- e.* Reason for the change if other than a change of reporting official; and
- f.* Effective date of the change.

4.1(3) Termination. Any employer which terminates or is dissolved for any reason shall provide IPERS with the following:

- a. Complete name and address of the dissolved entity;
- b. Assigned IPERS account number;
- c. Last date on which wages were paid;
- d. Date on which the entity dissolved;
- e. Reason for the dissolution;
- f. Whether or not the entity expects to pay wages in the future;
- g. Whether the entity is being absorbed by another covered employer;
- h. Name and address of absorbing employer if applicable; and
- i. Name and address of employer that will retain the records of the dissolved entity.

4.1(4) Reports of dissolved or absorbed employers. An employer that has been dissolved or entirely absorbed by another employer is required to file a monthly report with IPERS through the effective date on which it was dissolved or absorbed. Any wages paid after this date are reported under the account number assigned to the new or successor employer, if any.

4.1(5) IPERS account number. Each employer is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

4.1(6) Patient advocates. For patient advocates employed under Iowa Code section 229.19, the county or counties for which services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible for forwarding reports and for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.

[ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—4.2(97B) Records to be kept by the employer.

4.2(1) General. Each employer shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

4.2(2) Required information. Records shall show with respect to each employee:

- a. Employee's name, address, gender, and social security account number, and other demographic information that may be required;
- b. Each date the employee was paid wages or other wage equivalent (e.g., room, board);
- c. Total amount of wages paid on each date including noncash wage equivalents;
- d. Total amount of wages including wage equivalents on which IPERS contributions are payable;
- e. Amount withheld from wages or wage equivalents for the employee's share of IPERS contributions; and
- f. Effective January 1, 1995, records will show, with respect to each employee, member contributions picked up by the employer.

4.2(3) Reports.

a. Each employer shall make reports as IPERS may require and shall comply with the instructions provided by IPERS for the reports.

b. Effective July 1, 2021, employers shall report the termination date and date of final paycheck for all terminating employees to IPERS with the final wage report for such employee. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. The Iowa department of administrative services and the Iowa department of corrections shall notify IPERS prior to adding additional job classifications to the protection occupation class. The notification shall include the effective date, names and social security numbers of the employees involved.

4.2(4) Fees. IPERS may assess to the employer a fee for administrative costs as described in subrule 4.3(6).

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5489C, IAB 3/10/21, effective 4/14/21]

495—4.3(97B) Wage reporting and payment of contributions by employers.

4.3(1) *Payment of contributions.* For wages paid on or after July 1, 2008, all covered employers are required to pay contributions on a monthly basis. Upon enrollment as an IPERS-covered employer, the employer shall receive the appropriate forms and instructions from IPERS to submit contributions. IPERS will provide monthly statements to each employer.

IPERS accepts the payment of contributions through electronic funds transfer. Payments utilizing the electronic funds transfer system shall be made according to the procedure described in subrule 4.3(3).

IPERS accepts the payment of contributions using checks and remittance advice forms. Employers filing monthly employer remittance advice forms on paper for two or more employers shall attach the checks to each remittance form. Checks shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice form to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Effective August 1, 2008, such payments and reports shall be subject to a fee as described in subrule 4.3(6).

4.3(2) *Wage reports.* For wages paid on or after July 1, 2008, all IPERS-covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all employees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the wage report is due on the next regularly scheduled business day.

Effective August 1, 2008, IPERS shall accept wage reports electronically via IPERS' employer self-service Internet application or as a paper report. However, for those employers submitting reports other than via IPERS' employer self-service Internet application, IPERS shall charge a fee as described in subrule 4.3(6).

4.3(3) *Deadlines for payment of contributions.*

a. Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or state-observed holiday, the contribution is due on the next regularly scheduled business day.

b. For employers paying contributions by electronic funds transfer, wage reports and contributions may be submitted at the same time.

4.3(4) *Request for time extension.* A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if a request is made before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to submit the wage report or pay the contribution on or before the end of the extension period, the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted. If the fifteenth day falls on a weekend or state-observed holiday, the contribution or wage report is due on the next regularly scheduled business day.

To establish good cause for an extension of time to file a wage report or pay contributions, the employer must show that the delinquency was not due to mere negligence, carelessness or inattention. The employer must affirmatively show that it did not file the wage report or timely pay a contribution because of some occurrence beyond the control of the employer.

4.3(5) *No reportable wages.* When an employer has no reportable wages during the applicable reporting period, the wage reporting document shall be filed according to subrule 4.3(2). Even if there are no reportable wages, the employer's account is considered delinquent for the reporting period and is subject to a fee until the report is filed. However, if the employer has notified IPERS on or before the due date that there are no wages to report, IPERS will adjust the due date, and no fee will be charged.

4.3(6) *Fees for noncompliance.* IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS' employer self-service Internet application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after August 1, 2008, IPERS shall charge employers a processing fee of \$20 plus 25 cents per employee for late submissions and manual processing of wage reports by IPERS.

Employers that are late or that do not use IPERS' employer self-service Internet application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee is assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code sections 97B.9 and 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or state-observed holiday, the due date shall be the next regularly scheduled business day.

4.3(7) *Erroneously reported wages for employees not covered under IPERS.* Employers that erroneously report wages for employees who are not eligible for coverage under IPERS may file an IPERS wage reporting adjustment form. IPERS shall return a warrant or issue a credit for both the employer and employee contributions made in error. The employer is responsible for returning the employees' share and for filing corrected federal and state wage reporting forms. Adjustments in such cases will be reported on the employer's monthly statement. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustment form for that employee for the same time period. No fee will be assessed to employers that correct information as provided under this subrule.

4.3(8) *Contributions paid on wages in excess of the annual covered wage maximum.* For wages paid on or after July 1, 2008, whenever IPERS determines that an employee's wages will exceed the annual maximum established under Section 401(a)(17)(A) and the cost-of-living adjustments to that maximum permitted under Section 401(a)(17)(B) of the Internal Revenue Code during a given month, IPERS shall notify the applicable employer and shall return the related excess contributions. IPERS will detail on the monthly report those employees for whom wages were reported in excess of the covered wage ceiling. The employer is responsible for returning the employee's share of excess contributions and making the applicable tax corrections.

4.3(9) *Termination within less than six months of the date of employment.* If an employee hired for permanent employment terminates within six months of the date of employment, the employer may file an IPERS form for reporting adjustments to receive a warrant or a credit, as elected by the employer, for both the employer's and employee's portions of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

4.3(10) *Reinstatement following an employment dispute.* Employees who are reinstated following an employment dispute may restore membership service credit as described in 495—9.5(97B).

[ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—4.4(97B) *Accrual of interest and application of employer payments.* Interest or charges as provided under Iowa Code section 97B.9 shall accrue on all employer payments not received by IPERS by the due date, except that interest or charges may be waived by IPERS if the employer requests an extension of time under subrule 4.3(4) prior to the due date. Effective August 1, 2008, employers that remit late contributions shall be charged a minimum of \$20 or interest at the rate provided in Iowa Code section 97B.70, whichever is greater. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full. Payments received from employers having unpaid account balances shall first be applied to the oldest outstanding balance.

495—4.5(97B) *Credit memos voided.* Rescinded IAB 3/26/08, effective 4/30/08.

495—4.6(97B) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Contribution rates for regular class members.

a. The following contribution rates were established by the Iowa legislature for all regular class members for the indicated periods:

	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010	Effective July 1, 2011
Combined rate	9.95%	10.45%	10.95%	11.45%	13.45%
Employer	6.05%	6.35%	6.65%	6.95%	8.07%
Employee	3.90%	4.10%	4.30%	4.50%	5.38%

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rulemaking that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025	Effective July 1, 2026
Combined rate	15.73%	15.73%	15.73%	15.73%	15.73%
Employer	9.44%	9.44%	9.44%	9.44%	9.44%
Employee	6.29%	6.29%	6.29%	6.29%	6.29%

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025	Effective July 1, 2026
Combined rate	17.52%	17.02%	17.02%	24.18%	24.42%
Employer	8.76%	8.51%	8.51%	11.965%	12.085%
Employee	8.76%	8.51%	8.51%	12.215%	12.335%

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025	Effective July 1, 2026
Combined rate	15.52%	15.52%	15.52%	15.52%	15.52%
Employer	9.31%	9.31%	9.31%	9.185%	7.635%
Employee	6.21%	6.21%	6.21%	6.335%	7.885%

4.6(4) Members employed in a “protection occupation” shall include:

a. Conservation peace officers. Effective July 1, 2002, all conservation peace officers, state and county, as described in Iowa Code sections 350.5 and 456A.13.

b. Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400 or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See employee classifications in rule 495—5.1(97B).) Effective January 1, 1995, part-time police officers shall be included.

c. Correctional officers as provided for in Iowa Code section 97B.49B. Employees who, prior to December 22, 1989, were in a “correctional officer” position but whose position is found to no longer meet this definition on or after that date shall retain coverage, but only for as long as the employee is in that position or another “correctional officer” position that meets this definition. Movement to a position that does not meet this definition shall cancel “protection occupation” coverage.

d. Airport firefighters employed by the military division of the department of public defense (airport firefighters). Effective July 1, 2004, airport firefighters become part of and shall make the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1994, through June 30, 2004, airport firefighters were grouped with and made the same contributions as sheriffs and

deputy sheriffs. From July 1, 1988, through June 30, 1994, airport firefighters were grouped with and made the same contributions as the other members covered under Iowa Code section 97B.49B. From July 1, 1986, through June 30, 1988, airport firefighters were a separate protection occupation group and made contributions at a rate calculated for members of that group. Prior to July 1, 1986, airport firefighters were grouped with regular members and made the same contributions as regular members.

Notwithstanding the foregoing, all airport firefighter service prior to July 1, 2004, shall be coded by IPERS as sheriff/deputy sheriff/airport firefighter service, and all airport firefighter service after June 30, 2004, shall be coded by IPERS as protection occupation service. This coding, however, shall not supersede provisions of this title that require members to make contributions at higher rates in order to receive certain benefits, such as in the hybrid formula pursuant to 495—12.4(97B).

e. Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

f. Effective July 1, 1990, an employee of the state department of transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.

g. Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

h. Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district department of correctional services.

i. Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district department of correctional services.

j. Effective July 1, 2008, county jailers and detention officers working as jailers.

k. Effective July 1, 2008, National Guard installation security officers.

l. Effective July 1, 2008, emergency medical care providers.

m. Effective July 1, 2008, special investigators who are employed by county attorneys.

n. Effective July 1, 2014, an employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in Iowa Code section 507E.8.

o. Effective July 1, 2014, an employee of a judicial district department of correctional services whose condition of employment requires the employee to be certified by the Iowa law enforcement academy and who is required to perform the duties of a parole officer as provided in Iowa Code section 906.2.

p. Effective July 1, 2016, a peace officer employed by an institution under the control of the state board of regents whose position requires law enforcement certification pursuant to Iowa Code section 262.13.

q. Effective July 1, 2016, a person employed by the department of human services as a psychiatric security specialist at a civil commitment unit for sexually violent offenders facility.

4.6(5) Service reclassification.

a. Prior to July 1, 2006, except as otherwise indicated in the implementing legislation or these rules, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall be coded by IPERS staff as special service if certified by the employer as constituting special service under current law. No additional contributions shall be required by regular service reclassified as special service under this paragraph.

b. Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65.

4.6(6) Effective July 1, 2006, in the determination of a sheriff’s or deputy sheriff’s eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits for that member shall count toward the total years of eligible service as a sheriff or deputy

sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C.

4.6(7) Pretax.

a. Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

b. Salaries reportable for purposes other than federal income tax will not be reduced, including for IPERS, FICA, and, through December 31, 1998, state income tax purposes.

c. Effective January 1, 1999, employers must pay member contributions on a pretax basis for both federal and state income tax purposes.

[ARC 7591B, IAB 2/25/09, effective 7/1/09; ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09; ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 6215C, IAB 2/23/22, effective 3/30/22; ARC 6949C, IAB 3/8/23, effective 4/12/23; ARC 7811C, IAB 4/17/24, effective 5/22/24; ARC 9287C, IAB 5/14/25, effective 6/18/25; ARC 9417C, IAB 7/23/25, effective 6/30/25; ARC 0323D, IAB 5/27/26, effective 7/1/26; ARC 0441D, IAB 7/8/26, effective 7/1/26]

495—4.7(97B) Employee information to be provided by covered employers. Covered employers are required to enroll new employees prior to reporting wages for the new employees using IPERS' employer self-service Internet application. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, date of hire, occupation code, gender, mailing address, and employer identification number. When an employee terminates employment with a covered employer, the employer shall provide the termination date and the date of the employee's final paycheck.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—4.8(97B) Additional employer contributions from employer-mandated reduction in hours or by the exercise of bumping rights to avoid a layoff. Rescinded ARC 2981C, IAB 3/15/17, effective 4/19/17.

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70 and 2009 Iowa Acts, chapter 170, section 51, as amended by 2010 Iowa Acts, House File 2518, sections 36 and 41.

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[Filed ARC 2981C (Notice ARC 2892C, IAB 1/18/17), IAB 3/15/17, effective 4/19/17]
[Filed ARC 3684C (Notice ARC 3537C, IAB 1/3/18), IAB 3/14/18, effective 4/18/18]
[Filed ARC 4337C (Notice ARC 4238C, IAB 1/16/19), IAB 3/13/19, effective 4/17/19]
[Filed ARC 5027C (Notice ARC 4925C, IAB 2/12/20), IAB 4/8/20, effective 5/13/20]
[Filed ARC 5489C (Notice ARC 5359C, IAB 12/30/20), IAB 3/10/21, effective 4/14/21]
[Filed ARC 6215C (Notice ARC 6117C, IAB 12/29/21), IAB 2/23/22, effective 3/30/22]
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CHAPTER 5 EMPLOYEES

[Prior to 6/9/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—5.1(97B) Identification of employees covered by the IPERS retirement law.

5.1(1) *Definition of employee—generally.* A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term “control” refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an “employee” as defined in the agreement between the state of Iowa and the Secretary of Health and Human Services, without the element of direction and control.

A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration.

IPERS makes employment determinations based on a common law test, which factors in behavior control, financial control and relationship of the parties. Once this decision is made, if any party disagrees with the decision, the party in disagreement will be required to submit an SS-8 Determination of Workers Status form directly to the Internal Revenue Service (IRS). Upon receipt of the determination by the IRS, IPERS will review this hiring arrangement a second time. A Final Agency Determination will be made at that time.

Further, if a person is performing essential governmental functions that can only be performed by a governmental employee, that person shall be IPERS-covered.

5.1(2) *Optional coverage procedures—July 1, 1994, through December 31, 1998.* Effective July 1, 1994, a person who is employed in a position which allows IPERS coverage to be elected as specified in Iowa Code section 97B.1A(8) must file a one-time election form with IPERS for coverage. If the person was employed before July 1, 1994, the election must be postmarked on or before July 1, 1995. If the person was employed on or after July 1, 1994, the election must be postmarked within 60 days from the date the person was employed. Coverage will be prospective from the date the election is approved by IPERS. The election, once filed, is irrevocable and continues until the member terminates covered employment. The election window does not allow members who had been in coverage to elect out.

5.1(3) *Election out of Iowa Code chapter 97B coverage by certain protection occupation groups.* Effective July 1, 1994, members employed before that date as a gaming enforcement officer, a fire prevention inspector peace officer, or an employee of the division of capitol police (except clerical workers), may elect coverage under Iowa Code chapter 97A in lieu of IPERS. The election must be directed to the board of trustees established in Iowa Code section 97A.5 and postmarked on or before July 1, 1995.

5.1(4) *Optional coverage procedures—January 1, 1999.* Effective January 1, 1999, new hires who may elect out of IPERS coverage shall be covered on the date of hire and shall have 60 days to elect out of coverage in writing using IPERS’ forms. Notwithstanding the foregoing, employees who had the right to elect IPERS coverage prior to January 1, 1999, but did not do so, shall be covered as of January 1, 1999, and shall have until December 31, 1999, to elect out of coverage.

[ARC 3684C, IAB 3/14/18, effective 4/18/18]

495—5.2(97B) Coverage treatment for specific employee classifications. Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are explicitly excluded or membership is made optional under Iowa Code section 97B.1A(8)“b,” while other classes are excluded or membership is made optional by their nature. The following subrules are designed to clarify the status of certain employee positions.

5.2(1) Elected officials. Effective January 1, 1999, the following persons shall be covered by IPERS unless they elect out of coverage:

- a. Elected officials in positions for which the compensation is on a fee basis;
- b. Elected officials of school districts;
- c. Elected officials of townships; and
- d. Elected officials of other political subdivisions who are in part-time positions.

An elected official who becomes covered under this chapter may later terminate membership by informing IPERS in writing of the expiration of the member's term of office or, if a member of the general assembly, of the intention to terminate coverage.

An elected official does not terminate covered employment with the end of each term of office if the official has been reelected for the same position. If elected for another position, the official shall be covered unless the official elects out of coverage.

5.2(2) County and municipal court bailiffs who receive compensation for duties shall be covered.

5.2(3) Full-time city attorneys shall be covered. Part-time city attorneys who are considered to be public officers or public employees shall be covered.

5.2(4) Magistrates shall be covered unless they elect out of IPERS coverage. Having made a choice to remain in IPERS coverage, a magistrate may not revoke that election and discontinue such coverage.

5.2(5) Office and clerical staff of a county medical examiner's office shall be covered. Effective January 1, 1995, county medical examiners and deputy county medical examiners who are full-time county employees shall be covered.

5.2(6) Police, firefighters, emergency personnel, and certain peace officers.

a. Effective July 1, 1994, police officers and firefighters of a city not participating in the retirement systems established under Iowa Code chapter 410 or 411 shall be covered.

b. Emergency personnel, such as ambulance drivers, who are deemed to be firefighters by the employer shall be covered as firefighters.

c. Effective January 1, 1995, part-time police officers shall be covered in the same manner as full-time police officers.

d. Reserve peace officers employed under Iowa Code chapter 80D shall not be covered in accordance with Iowa Code section 80D.14.

e. A police chief or fire chief who has submitted a written request to the board of trustees created by Iowa Code section 411.36 to be exempt from coverage under Iowa Code chapter 411 shall not be covered under IPERS in accordance with Iowa Code sections 384.6(1) and 411.3. The city shall make on behalf of such person the contributions required under Iowa Code section 384.6(1) to the International City Management Association/Retirement Corporation.

f. Peace officer candidates of the department of public safety shall not be covered.

g. An emergency medical care provider who provides emergency medical services, as defined in Iowa Code section 147A.1, and who is not a member of the retirement systems established in Iowa Code chapter 411 shall be covered.

5.2(7) County social welfare employees shall be covered.

5.2(8) Members of county soldiers relief commissions and their administrative or clerical employees shall be covered.

5.2(9) Part-time elected mayors, mayors of townships, and mayors who are paid on a fee basis are covered under IPERS unless they elect out of coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.

5.2(10) Field assessors shall be covered.

5.2(11) Members of county boards of supervisors who receive an annual salary shall be covered. Effective for terms of office beginning January 1, 1999, part-time members of county boards of supervisors who receive an annual salary or are paid on a per diem basis shall be covered unless they elect out of coverage.

5.2(12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year shall be covered unless the employee

elects out of coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.

5.2(13) Effective July 1, 2008, temporary employees shall not be covered provided that they have not established an ongoing relationship with an IPERS-covered employer. An ongoing relationship with an IPERS-covered employer is established when:

- a. The employee is paid covered wages of \$1,000 or more per quarter in two consecutive quarters; or
- b. The employee is employed by a covered employer for 1,040 or more hours in a calendar year.

Coverage shall begin when the permanency of the relationship is established and shall continue until the employee's relationship with the covered employer is severed. If there is no formal severance, coverage for a person hired for temporary employment who has established an ongoing relationship with a covered employer shall continue until that person completes four consecutive calendar quarters in which no services are performed for that employer after the last covered calendar quarter.

No service credit will be granted to a temporary employee who has become a covered employee under this rule for any quarter in which no covered wages are reported unless the employee is on a leave of absence that qualifies for service credit under Iowa Code section 97B.1A(20). Contributions shall be paid, and service credit shall be accrued, when wages are paid in the quarter after the ongoing relationship has been established.

5.2(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts shall be covered unless they elect out of coverage.

5.2(15) Full-time and part-time county attorneys shall be covered.

5.2(16) Tax study committee employees shall be covered.

5.2(17) School bus drivers who are considered to be public employees shall be covered. School bus drivers who are independent contractors shall not be covered. A determination must be made by IPERS on the facts presented on a case-by-case basis.

5.2(18) Full-time or part-time students employed part-time by the educational institution where they are enrolled shall not be IPERS-covered. Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers. If the employer is not the institution where the college student is enrolled, the college student is not exempt from IPERS coverage and employers would determine IPERS coverage by applying the usual permanent or temporary rules.

High school and lower grade students continue to be exempt from IPERS coverage.

5.2(19) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants and specialists in their fields of specialized knowledge or skill shall not be covered.

5.2(20) Members of any other retirement system in Iowa maintained in whole or in part by public funds shall not be covered. However, effective July 1, 1996, an employee who has two jobs, one covered by IPERS and one covered by another retirement system in Iowa, shall remain an IPERS-covered employee, unless the employee receives credit in such other retirement system for both jobs.

5.2(21) Members who are contributing to the federal civil service retirement system or federal employees retirement system shall not be covered. However, effective July 1, 1996, an employee who has two jobs, one covered by IPERS and one covered by a federal retirement system, shall be considered as an IPERS-covered employee, unless the employee receives credit in such federal retirement system for both jobs.

5.2(22) Employees of credit unions without capital stock organized and operated for mutual purposes without profit shall not be covered.

5.2(23) Members of the ministry, rabbinate or other religious order who perform full-time or part-time religious service for a covered employer shall be covered. However, members of the ministry, rabbinate or other religious order who have taken the vow of poverty may elect out of coverage.

5.2(24) Any physician, surgeon, dentist or member of other professional groups employed full-time by a covered employer shall be covered. However, any member of a professional group who performs part-time service for any public agency but whose private practice provides the major source of income shall not be covered, except for city attorneys and health officials.

5.2(25) Interns and resident doctors employed by a state or local hospital, school or institution shall not be covered.

5.2(26) Professional personnel who acquire the status of an officer of the state of Iowa or a political subdivision thereof, even though they engage in private practice and render government service only on a part-time basis, shall be covered.

5.2(27) Effective July 1, 1994, volunteer firefighters and special police officers are considered temporary employees and shall be covered if they meet the requirements of subrule 5.2(13).

5.2(28) Residents or inmates of county homes shall not be covered.

5.2(29) Members of the state transportation commission, the board of parole, and the state health facilities council shall be covered unless they elect out of coverage.

5.2(30) Employees of an interstate agency established under Iowa Code chapter 28E, and similar enabling legislation in an adjoining state, if the city had made contributions to the system for employees performing functions which are transferred to the interstate agency shall be considered employees of the city for the sole purpose of membership in IPERS, although the employer contributions for those employees are made by the interstate agency.

5.2(31) City managers, or city administrators performing the duties of city managers, under a form of city government listed in Iowa Code chapter 372 or 420 shall be covered unless they elect out of coverage.

5.2(32) Employees appointed by the state board of regents shall be covered unless they elect coverage in an alternative retirement system qualified by the state board of regents. An employee must make an election in the alternative retirement system within 60 days of the employee's first day of employment.

5.2(33) Employees who work in additional positions with additional duties, along with normal duties with the same employer, shall be considered covered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; and city employee/paid firefighter.)

5.2(34) Adjunct instructors employed by a community college or university shall not be covered. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year. The determination of whether a teaching load exceeds one-half time shall be based on the number of credit hours or noncredit contact hours that the community college or university considers to be a full-time teaching load for a regular full semester or quarter. An adjunct instructor whose teaching load exceeds the foregoing limitations shall be covered.

In determining whether an adjunct instructor is a covered employee, no credit shall be granted for teaching periods of shorter duration than a regular semester or regular quarter (such as summer semesters), regardless of the number of credit or contact hours assigned to that period.

If there is no formal severance, an adjunct instructor who becomes a covered employee shall remain a covered employee until that person completes four consecutive calendar quarters in which no services are performed for that covered employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to any adjunct instructor who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the adjunct instructor is on an approved leave of absence that qualifies for service credit under Iowa Code section 97B.1A(20).

5.2(35) Effective July 1, 1992, enrollees of a senior community service employment program authorized by Title V of the Older Americans Act and funded by the United States Department of Labor shall not be covered unless:

- a. Both the enrollee and the covered employer elect coverage; or
- b. The enrollee is currently contributing to IPERS.

For purposes of this subrule only, a covered employer is defined as the host agency where the enrollee is placed for training.

5.2(36) Employees of area agencies on aging shall be included. However, effective July 1, 1994, employees of area agencies on aging shall not be covered if the area agency has provided for participation by all of its eligible employees in an alternative qualified plan pursuant to the requirements of the federal

Internal Revenue Code. If an area agency on aging does not participate in an alternative plan, or terminates participation in such plan, IPERS coverage shall begin immediately.

5.2(37) Effective July 1, 1994, arson investigators shall not be covered. They were transferred to the public safety peace officers' retirement, accident and disability system as found in Iowa Code chapter 97A.

5.2(38) Persons who meet the requirements of independent contractor status as determined by IPERS using the criteria established by the federal Internal Revenue Service shall not be covered.

5.2(39) Effective July 1, 1994, a person employed on or after that date for certain public safety positions shall not be covered. These positions are gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers, and employees of the division of capitol police (except clerical workers).

5.2(40) Employees of area community colleges and universities shall be covered unless they elect coverage under an alternative system pursuant to a one-time irrevocable election. An employee must make an election in the alternative retirement system within 60 days of the employee's first day of employment.

5.2(41) Volunteer emergency personnel, such as ambulance drivers and emergency medical technicians, shall be considered temporary employees and shall be covered if they meet the requirements of subrule 5.2(13). Persons who meet such requirements shall be covered under the protection occupation requirements of Iowa Code section 97B.49B if they are considered firefighters by their employers; otherwise they shall be covered under Iowa Code section 97B.1A.

5.2(42) Persons employed through any program described in Iowa Code section 84A.7 and provided by the Iowa conservation corps shall not be covered.

5.2(43) Appointed and full-time elective members of boards and commissions who receive a set salary shall be covered. Effective January 1, 1999, part-time elective members of boards and commissions not otherwise described in these rules who receive a set salary shall be covered unless they elect out of coverage. Members of boards, other than county boards of supervisors, and commissions, including appointed and elective full-time and part-time members, who receive only per diem and expenses shall not be covered.

5.2(44) Persons receiving rehabilitation services in a community rehabilitation program, rehabilitation center, sheltered workshop, and similar organizations whose primary purpose is to provide vocational rehabilitation services to target populations shall not be covered.

5.2(45) Persons who are members of a community service program authorized under and funded by grants made pursuant to the federal National and Community Service Act of 1990 shall not be covered.

5.2(46) Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall not be covered.

5.2(47) Persons who are employed by a covered employer and leased to a noncovered employer shall be covered.

5.2(48) Effective July 1, 1999, persons performing referee services for a covered employer shall not be covered, unless the performance of such services is included in the persons' regular job duties for the employer for which such services are performed.

5.2(49) Effective July 1, 2000, patient advocates appointed under Iowa Code section 229.19 shall be covered.

5.2(50) Employees of the Iowa student loan liquidity corporation shall not be covered.

5.2(51) A citizen coach is an employee (permanent or temporary) who works for a school district in only a coaching capacity. An employer may provide a citizen coach with IPERS coverage immediately. If the employer chooses not to, then the following determination of IPERS coverage is needed:

a. If the citizen coach is expected to fill the position each season and cannot be unseated by another district employee, then the district and citizen coach have established a permanent relationship and IPERS coverage should begin once that citizen coach returns to coach a second season.

b. If there is no expectation of continued employment beyond the first season for the citizen coach, or if the citizen coach can be unseated by another district employee, then a temporary relationship exists and the citizen coach shall only be covered if the citizen coach meets the requirements of subrule 5.2(13).

[ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 6215C, IAB 2/23/22, effective 3/30/22; ARC 7811C, IAB 4/17/24, effective 5/22/24]

495—5.3(97B) Participation in IPERS and another retirement system. Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for the same position held.

[ARC 3684C, IAB 3/14/18, effective 4/18/18]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.4, 97B.42, 97B.42A, 97B.49B, 97B.49C, and 97B.49G.

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CHAPTER 6
COVERED WAGES
[Prior to 6/9/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—6.1(97B) IRS requirements. Wages as discussed in this chapter shall not exceed the amount permitted for a given year under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code, which are incorporated herein by this reference.

[ARC 9397B, IAB 2/23/11, effective 3/30/11]

495—6.2(97B) Definition of wages. “Wages” means all compensation earned by employees including, except as otherwise provided under this chapter, vacation pay; sick pay; back pay; amounts deducted from the employee’s pay at the employee’s discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents. This definition applies to these rules, regulations, interpretations, forms and other IPERS publications unless the context otherwise requires.

495—6.3(97B) IPERS coverage for various forms of compensation. The following is a list of various types of compensation and the corresponding IPERS coverage treatment:

6.3(1) *Vacation pay or annual leave pay.* Vacation pay or annual leave pay means the amount paid to an employee during a period of vacation.

6.3(2) *Sick pay.* Sick pay means the amount paid to an employee during a period of sick leave.

6.3(3) *Workers’ compensation payments and other third-party payments.* Workers’ compensation payments, unemployment payments, or short-term and long-term disability payments made by an insurance company or third-party payer, such as a trust, are not included as wages. Payments for sick leave which are a continuation of salary payments if paid from the employer’s general assets, regardless of whether the employer labels the payments as sick leave, short-term disability, or long-term disability, are covered wages.

6.3(4) *Compensatory time.* Wages include amounts paid for compensatory time taken in lieu of regular work hours or when paid as a lump sum. However, compensatory time paid in a lump sum shall not exceed 240 hours per employee per year or any lesser number of hours set by the employer. Each employer shall determine whether to use the calendar year or a fiscal year other than the calendar year when setting its compensatory time policy. The wages reported to IPERS must reflect the employer’s policy.

6.3(5) *Banked holiday pay.* If an employer codes banked holiday time as holiday or additional accrued vacation time, the banked holiday pay will be vacation pay under subrule 6.3(1). If an employer codes banked holiday time as compensatory time, the banked holiday pay will be combined with compensatory pay and subject to the limits set forth in subrule 6.3(4).

6.3(6) *Special lump sum payments.* Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include: catastrophic leave paid in a lump sum, bonuses, tips, honoraria, or student loan repayment compensation. Exclusion of payments as described in this subrule applies whether the payment is in a lump sum or in installments.

6.3(7) *Covered wage treatment for supplemental payments.*

- a.* Payments excluded from covered wages as bonuses include the following:
- (1) Recruitment payments.
 - (2) Retention payments.
 - (3) Payments to members who achieve improvements in their employer’s financial status or performance ratings.
 - (4) Employee performance incentive payments.
 - (5) Extraordinary job performance payments.

(6) Payments for the possession, attainment, or maintenance of special skills or professional certifications (does not apply to advancements in a member's placement in wage or salary schedule, or placement in a higher tier wage or salary schedule).

(7) Payments to members made in lieu of merit increases because the members' wage or salary scales are capped.

(8) Payments similar in substance to those enumerated above without regard to the payments' titles, tag lines, labels or classifications by employers.

b. Payments included in covered wages that are not to be treated as bonuses include the following:

(1) Payments authorized by statute and used to increase the general level of teacher pay, except as otherwise provided in this subrule (for example, when such moneys are used to pay retention bonuses).

(2) Payments for which additional, or new and different, job duties are required in order to receive the payment.

(3) Payments for employment longevity.

c. Payments that are otherwise to be treated as covered wages under paragraph "b" shall not be covered if IPERS determines that the payments are made for paragraph "a," subparagraphs (1) to (8), of this subrule or other subrules, including, but not limited to, recruitment or retention bonuses, retirement incentive and severance payments, reimbursements of business expenses, and payment of allowances.

d. IPERS shall have the final authority to determine if supplemental payments not described in paragraphs "a," "b" and "c" of this subrule should be treated as excluded bonus payments or covered wages. In making its determination, IPERS may consider, but is not limited to, such factors as the supplemental payments' similarity to payments described in paragraphs "a," "b" and "c" of this subrule, whether such payments are discretionary with the employer, and whether, on the one hand, the payments are regular and periodic over the working careers of a broad group of individuals or, on the other hand, are short-term, irregular, or ad hoc payments whose primary effect is to spike certain members' final average salaries.

6.3(8) *Other special payment arrangements.* Wages do not include amounts paid pursuant to special arrangements between an employer and employee whereby the employer pays increased wages and the employee reimburses the employer or a third-party obligor for all or part of the wage increase. This limitation includes, but is not limited to, the practice of increasing an employee's wages by the employer's share of health care costs and having the employee reimburse the employer or a third-party provider for such health care costs. Wages do not include amounts paid pursuant to a special arrangement between an employer and employee whereby wages in excess of the covered wage ceiling for a particular year are deferred to one or more subsequent years. Wages do not include employer contributions to a plan, program, or arrangement that are not included in the employee's federal taxable income. However, certain employer contributions under IRC Section 125 plans are permitted to be treated as covered wages under rule 495—6.5(97B) subject to the terms of that rule.

Employers and employees that knowingly and willfully enter into the types of arrangements described in this subrule, causing an impermissible increase in the payments authorized under Iowa Code chapter 97B, may be prosecuted under Iowa Code section 97B.40 for engaging in a fraudulent practice. If IPERS determines that its calculation of a member's monthly benefit includes amounts paid under an arrangement described in this subrule, IPERS shall recalculate the member's monthly benefit, after making the appropriate wage adjustments. IPERS may recover the amount of overpayments caused by the inclusion of the payments described in this subrule from the monthly amounts plus interest payable to the member or amounts payable to the member's successor(s) in interest, regardless of whether or not IPERS chooses to prosecute the employers and employees under Iowa Code section 97B.40.

6.3(9) *Wage equivalents.* Items such as food, lodging and transportation are includable as employee income, if they are paid as compensation for employment. The basic test is whether or not such wage equivalent was given for the convenience of the employee or employing unit. Wage equivalents are not reportable under IPERS if given for the convenience of the employing unit or are not reasonably quantifiable. Wage equivalents that are not included in the member's federal taxable income shall be deemed to be for the convenience of the employer. A wage equivalent is not reportable if the employer certifies that there was a substantial business reason for providing the wage equivalent, even if the wage

equivalent is included in the employee's federal taxable income. Wages paid in any other form than money are measured by the fair market value of the meals, lodging, travel or other wage equivalents.

6.3(10) *Members of the general assembly.* Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary. Wages include per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages do not include expense payments except that, effective July 1, 1990, wages include daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly. Such nontravel expenses of office during a session of the general assembly shall not exceed the maximum established by law for members from Polk County. A member of the general assembly who has elected to participate in IPERS shall receive four quarters of service credit for each calendar year during the member's term of office, even if no wages are reported in one or more quarters during a calendar year.

6.3(11) *Wages restored following an employer-mandated reduction in hours.* Rescinded IAB 3/15/17, effective 4/19/17.

6.3(12) *Wages paid as a back pay settlement.* IPERS contributions must be calculated on the gross amount of a back pay settlement before the settlement is reduced for taxes, interim wages, unemployment compensation, and similar mitigation of damages adjustments. IPERS contributions must be calculated by reducing the gross amount of a back pay settlement by any amounts not considered covered wages such as, but not limited to, lump sum payments for medical expenses.

Notwithstanding the foregoing, a back pay settlement that does not require the reinstatement of a terminated employee and payment of the amount of wages that would have been paid during the period of severance (before adjustments) shall be treated by IPERS as a "special lump sum payment" under subrule 6.3(6) and shall not be covered.

6.3(13) *Limitations on benefits and contributions.*

a. Section 415(b) limitations on benefits. A member may not receive an annual benefit that exceeds the dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in Internal Revenue Code Sections 415(b) and 415(d). For purposes of applying the limits under Internal Revenue Code Section 415(b) (Limit), the following will apply:

(1) With respect to a member who does not receive a portion of the member's annual benefit in a lump sum:

1. The member's Limit will be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

2. To the extent the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost-of-living increases under the IPERS trust fund until such time as the benefit plus the accumulated increases are less than the applicable Limit; and

3. Thereafter, in any subsequent limitation year, the member's annual benefit including any automatic cost-of-living increase shall be tested under the then applicable benefit Limit, including any adjustment to the Internal Revenue Code Section 415(b)(1)(A) dollar limit under Internal Revenue Code Section 415(d) (cost-of-living adjustments) and the regulations thereunder; and

(2) With respect to a member who receives a portion of the member's annual benefit in a lump sum:

1. The member's applicable Limit shall be applied taking into consideration automatic cost of living increases as required by Internal Revenue Code Section 415(b) and applicable Treasury Regulations; and

2. In no event shall a member's annual benefit payable under the system in any limitation year be greater than the Limit applicable at the annuity starting date, as increased in subsequent years pursuant to Internal Revenue Code Section 415(d) and the regulations thereunder. If the form of benefit without regard to the automatic benefit increase feature is not a straight life or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent straight life annuity benefit determined using the assumptions required by Treasury Regulations, including the mortality table specified in Revenue Ruling 2001-62 or Revenue Ruling 2007-67, as applicable.

b. Section 415(c) limitations on contributions and other member additions. Member contributions and other additions paid to the system may not exceed the annual limits on contributions and other

additions allowed by Internal Revenue Code Section 415(c). For purposes of applying these limits, the definition of “compensation,” where applicable, will be compensation as defined in Treasury Regulation Section 1.415(c)-2(d)(3), or successor regulation. The foregoing definition of compensation will exclude member contributions picked up under Internal Revenue Code Section 414(h)(2) and, for plan years beginning after December 31, 1997, compensation will include the amount of any elective deferrals, as defined in Internal Revenue Code Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of Internal Revenue Code Section 125 or 457 and, for plan years beginning on and after January 1, 2001, pursuant to Internal Revenue Code Section 132(f)(4).

c. Limitation year. The limitation year is the calendar year.

6.3(14) *Employer payments treated as remuneration counted against the reemployment earnings limit.* All taxable or nontaxable compensation, regardless of the title, tag line, label, or classification attributed to that compensation paid by IPERS-covered employers to retired reemployed IPERS members, shall be considered remuneration when determining reemployment earnings limits and reductions as set forth under Iowa Code section 97B.48A and rule 495—12.8(97B). This rule shall apply whether the compensation is paid pursuant to individual contracts or otherwise, and regardless of whether it is considered covered or noncovered compensation under Iowa Code section 97B.1A(26) and the administrative rules thereunder, except for:

a. Contributions to health insurance plans and programs, and

b. Reimbursements of actual work-related expenses required by the retired reemployed members' jobs.

6.3(15) *Employer contributions as remuneration counted against the reemployment earnings limit.* Employer contributions made on behalf of retired reemployed members to tax qualified and nonqualified retirement and deferred compensation plans and to other fringe benefit arrangements, excluding health insurance plans and programs, shall constitute remuneration from employment which shall be applied to the reemployment earnings limits and reductions set forth under rule 495—12.8(97B). Such contributions, even if counted as remuneration hereunder, shall not be counted as covered wages, unless the facts in the particular case indicate that, under the circumstances, the arrangement should be treated as covered wages under rules 495—6.1(97B) through 495—6.5(97B). Nonelective employer contributions to the following shall constitute remuneration when determining reemployment earnings limits: tax qualified retirement and deferred compensation plans; all nonqualified retirement plans and deferred compensation arrangements; IRAs; rabbi, secular, and other trust arrangements; split dollar and other life insurance arrangements; and long-term care insurance. Bonuses and allowances will also be counted as reemployment earnings.

[ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 6949C, IAB 3/8/23, effective 4/12/23]

495—6.4(97B) Month for which wages are to be reported. Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, and similar situations involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages. The employer shall file with IPERS wage adjustments allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

6.4(1) Actual and constructive receipt. An employer cannot report wages as having been paid to employees as of a monthly reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as June wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as July wages.

6.4(2) One quarter of service will be credited for each quarter in which a member is paid IPERS-covered wages.

a. “Covered wages” means wages of a member during periods of service that do not exceed the annual covered wage maximum as permitted for a given year under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code, which are incorporated herein by this reference.

b. If a member is employed by more than one employer during the calendar year, the total amount of wages paid by all covered employers shall be included in determining the annual covered wage limit established under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code. If the amount of wages paid to a member by several employers during any given month exceeds the covered wage limit as determined for that calendar year, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. IPERS shall not accept excess wages and applicable contributions from employers and shall return excess contributions as provided in 495—subrule 4.3(8).

[ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09; ARC 9397B, IAB 2/23/11, effective 3/30/11; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—6.5(97B) Covered wage treatment for employer contributions to IRC Section 125 plans. If certain conditions are met, employer contributions to fringe benefit programs that qualify under IRC Section 125 may be treated as covered wages. The following subrules set forth IPERS’ regulations for determining covered wage treatment and for making wage adjustments when employer-paid contributions have been covered or excluded in violation of the standards set forth below.

6.5(1) Section 125 plans. For purposes of this rule, a Section 125 plan means an employer-sponsored fringe benefit plan that is subject to Section 125 of the federal Internal Revenue Code (IRC). Some of the common names for this type of plan are cafeteria plan, flexible benefits plan, flex plan, and flexible spending arrangement.

a. Effective January 1, 2017, employers must annually certify to IPERS, on a form approved by the system, that their Section 125 plans meet all IRC requirements.

b. If an employer does not certify its Section 125 plan’s compliance with the IRC, all employer contributions to fringe benefit plans will be excluded from IPERS coverage.

6.5(2) Elective employer contributions. For purposes of this rule, “elective employer contributions” means employer contributions made to a Section 125 plan that can be received in cash or used to purchase benefits under the Section 125 plan. Generally, elective employer contributions that are not subject to special eligibility requirements qualify as covered wages.

6.5(3) Mandatory minimum coverage requirements. The term “elective employer contributions” does not include employer contributions that must be used to purchase benefits under a Section 125 plan. For example, if an employer provides \$2,500 to its employees to purchase benefits in a Section 125 plan, but requires that all employees must use \$1,000 of that amount to purchase single health coverage, the cost of the single coverage is deducted. In this example, \$1,000 would be subtracted from the \$2,500 provided, resulting in \$1,500 of covered wages.

6.5(4) Uniformity determined coverage group by coverage group. Iowa Code section 97B.1A(26) “a” (1) “b” states that elective employer contributions shall be treated as covered wages only if made uniformly available and not limited to highly compensated employees. The application of the uniformity concept may be illustrated as follows: Employer Z has two major groupings of employees covered under its cafeteria plan: teaching staff and support staff. Every member of the teaching staff is provided \$3,000 to purchase benefits under the Section 125 plan. Every member of the teaching staff must take single coverage costing \$1,500. Every member of the support staff is provided \$2,500 and must also take the single coverage costing \$1,500. Each member of the teaching staff would have \$1,500 treated as covered wages, and each member of the support staff would have \$1,000 treated as covered wages. This would be considered uniform treatment.

Uniformity is not destroyed by the fact that the amount available to members of a coverage group varies because the actual cost of mandatory minimum coverage varies depending on actuarial factors that apply to each individual. For example, assume Employer Z above also requires each employee to have long-term disability coverage. In Employer Z’s case, the actual cost of disability coverage will vary from individual to individual. In that case, Employer Z would also deduct the actual cost of the required disability coverage, individual by individual, when determining IPERS-covered wages.

Uniformity is not destroyed if an employer has two groups of employees who, as a result of collective bargaining, have differing entitlements to employer contributions. For example, Employer Y has a contract that provides \$3,500 to each employee to purchase benefits under the Section 125 plan. Every employee may take all the cash by waiving participation in the plan, or may use all or part of the employer contributions to the Section 125 plan. In the collective bargaining process, a new contract is adopted which states that the employer will still provide \$3,500 to each employee to purchase benefits under the Section 125 plan. However, under the new contract, persons who waived participation before April 15 may still waive participation in the plan and take all the cash, but persons who did not waive participation and those hired after April 15 must have single coverage costing \$1,700. Employer Y would be treated as having two groups of employees with different elective employer contribution amounts. The grandfathered group (employees who waived participation before April 15) would have covered wages of \$3,500, and the group consisting of those who did not waive participation before April 15 and new employees would have covered wages of \$1,800.

6.5(5) *Highly compensated employee test.* Iowa Code chapter 97B provides that, in addition to being uniformly available, employer contributions must not discriminate in favor of highly compensated employees (HCEs). For purposes of this subrule, an HCE is an employee who has reported wages and tips subject to Medicare tax in excess of the IRC Section 414(q) limit then in effect. IPERS shall apply the HCE limitation as follows. If elective employer contributions are made available to HCEs, the total elective employer contributions made available to the HCE group must not exceed 25 percent of the total elective employer contributions made available under the Section 125 plan to all employees, including the HCEs. If the elective employer contributions available to the HCE group exceed the 25 percent limit (or if it is determined that the Section 125 plan discriminates in favor of HCEs under other IRS rules), elective employer contributions for HCEs shall not exceed the highest amount available to a nonexecutive coverage group of employees covered under such plan. The general application of these principles is illustrated below, using the 2002 IRC Section 414(q) dollar limit of \$90,000.

Employer W has a Section 125 plan that provides elective employer contributions totaling \$7,000 to executive staff, \$4,500 to teaching staff, and \$3,500 to support staff. There are no other limits or exclusions that apply. These amounts are treated as covered wages for each member of each group, provided that the total amount of contributions made available to HCEs does not exceed 25 percent of the total elective employer contributions for all employees covered under the plan. If elective employer contributions for the executive staff totaled \$70,000, and total elective employer contributions for the remainder of the staff totaled \$500,000, the HCE percentage of total elective employer contributions would be 12 percent (\$70,000 divided by \$570,000), and all elective employer contributions would be treated as covered wages for all groups. However, if elective employer contributions for the executive staff totaled \$70,000, and elective employer contributions for the remainder of the staff totaled \$200,000, the HCE percentage would be 26 percent (\$70,000 divided by \$270,000), and HCEs' elective employer contributions would be limited to \$4,500 per HCE for covered wage purposes.

6.5(6) *Elective employer contributions limited to dual coverage employees.* In some cases, a Section 125 plan provides for what appear to be mandatory employer contributions for health plan coverage, but the terms of the Section 125 plan permit dual coverage employees to waive coverage and receive the employer contributions in cash, if the employee can prove coverage under another health care plan. IPERS shall continue to treat the full amount of employer contributions in such cases as not being IPERS-covered wages, even though individual employees with the described dual coverage may actually receive the employer contribution in cash.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—6.6(97B) Corrections of overpayments and underpayments of contributions and benefits caused by misreporting of covered wages. IPERS shall use the following guidelines in requiring corrections of overpayments and underpayments of contributions caused by misreported wages or IPERS-covered service. Corrections must be made for all current employees omitted in error, active, retired, and inactive members, subject to the following limitations:

6.6(1) If employer and employee contributions were underreported, wage adjustments shall be filed and employers shall be billed for all shortages of employer and employee contributions plus interest. Employers shall be entitled to collect reimbursement for the employee share of contributions as provided in Iowa Code section 97B.9. If retirement benefits have been underpaid as a result of the error, IPERS shall, upon receipt of the contribution shortage, make the appropriate adjustments and pay all back benefits.

6.6(2) If employer and employee contributions were overreported, wage adjustments shall be filed and the appropriate contribution amounts shall be credited to employers for distribution to the respective employee and employer contributors. If the reporting error caused an overpayment of retirement benefits, IPERS may offset excess contributions received against overpayments and shall request a repayment of the remainder of the overpayment, if any, from the recipient.

Wage adjustments, overpayments and underpayments, and unintentional reporting errors shall be determined as of the onset of the error. Notwithstanding the foregoing adjustment and collection standards, IPERS reserves the right to negotiate adjustments with individual employers in special situations, and no negotiated settlement with an employer shall be deemed to constitute a waiver of this rule or a binding precedent for other employers.

[ARC 4337C, IAB 3/13/19, effective 4/17/19]

These rules are intended to implement Iowa Code sections 97B.1A(26), 97B.9, 97B.11, 97B.14 and 97B.14A.

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CHAPTER 7
SERVICE CREDIT AND VESTING STATUS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—7.1(97B) Service credit.

7.1(1) General.

a. A member shall receive membership service credit for service rendered after July 4, 1953. Service is counted to the complete quarter calendar year. A calendar year shall not include more than four quarters.

b. From July 4, 1953, through June 30, 1965, a member received one quarter of service credit for each quarter in which the member's covered wages totaled at least \$200. From July 1, 1965, through June 30, 1992, a member received one quarter of service credit for each quarter in which the member's covered wages totaled at least \$300. For quarters beginning July 1, 1992, and later, a member shall receive one quarter of service credit for each calendar quarter in which at least \$1 of covered wages is reported.

c. Notwithstanding paragraph 7.1(1)“*b*” above, a member who is on an unpaid leave of absence and who during the period covered by the unpaid leave performs services for the covered employer granting the unpaid leave shall not receive service credit for such services until the employer has reported \$1,000 in each of two consecutive quarters included in the unpaid leave period, and such service credit shall be granted only with respect to quarters beginning after said two consecutive quarters.

d. A nonvested member who terminates covered employment prior to attaining the age of 55, but who has covered wages in the year in which the member attains the age of 55 shall be treated as a vested member.

e. Notwithstanding paragraph 7.1(1)“*d*” above, effective July 1, 2012, a nonvested member who is not vested by age as of June 30, 2012, can only become vested by age if the member terminates employment at age 65 or older while in covered employment.

7.1(2) Service credit for persons employed by institutions operating on a nine-month basis. An employee working in a position for a school district or other educational institution which operates on a nine-month basis shall receive credit for the third quarter when covered wages are reported in the second and fourth quarters. A member who was on an approved leave of absence in the second quarter, but who has service credit for that quarter, whether by operation of law or through a service purchase, and who returns to work in the fourth quarter immediately following shall also receive credit for the missing third quarter. In order for the member to receive this service credit, the quarters before and after the third quarter must be reported for the same occupation class code.

7.1(3) Approved leave periods.

a. Effective July 1, 1998, a member's service is not deemed interrupted while a member is on a leave of absence that qualifies for protection under the Family and Medical Leave Act of 1993 (FMLA), or would qualify but for the fact that the type of employment precludes coverage under the FMLA, or during the time a member is engaged in military service for which the member is entitled to receive credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 U.S.C. Sections 4301 to 4333).

b. Reentry into public employment by an employee on military leave can be achieved if the individual accepts employment with a covered employer. Reemployment may begin anytime within 12 months of the individual's discharge from military service or, if longer, within the period provided under USERRA. Upon reemployment the member shall receive credit for all service to which the member is entitled pursuant to USERRA.

Notwithstanding any provision of Iowa Code chapter 97B or these rules to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).

For reemployments initiated on or after December 12, 1994, a member shall be treated as receiving compensation for each quarter during the member's period of military service equal to the compensation that the member would have received but for the period of military service, as certified by the member's

employer on forms supplied by IPERS. The member's deemed compensation during the period of military service shall be taken into consideration in determining a member's make-up contributions, if any, and the member's high three-year average covered wage.

For reemployments initiated on or after December 12, 1994, following a military leave described in this subrule, make-up contributions shall be permitted with respect to employee contributions that would have been made during the period of military service if the member had actually been in covered employment during the period earning the deemed compensation provided for under this subrule. Make-up contributions shall be permitted during the five-year period that begins on the date of reemployment or, if less, a period equal to three times the period of military service.

The member shall request the foregoing make-up contributions (except contributions for periods prior to January 1, 1995, which shall be made as posttax contributions) on forms to be filed with the employer, which shall forward a copy to the system. Make-up contributions shall be made as pretax contributions under Internal Revenue Code Section 414(h)(2). Employers must comply with a member's request to begin make-up contributions during a period not exceeding that described in the preceding paragraph and shall forward said amounts to the system in the same manner as provided for pick-up contributions under Iowa Code section 97B.11A. An election to make up employee contributions under this subrule shall be irrevocable.

c. Effective for leaves of absence beginning on or after July 1, 1998, an eligible member must make contributions to the system in order to receive service credit for the period of the leave (except for leaves under paragraphs "a" and "b" above).

d. Reentry into public employment by an employee on a leave of absence under paragraphs "a" and "b" can be achieved by the employee by accepting employment with any public employer, provided that any interruption between the end of the period of leave of absence and reentry into public employment meets the requirements of the FMLA, USERRA and this subrule.

e. Credit for a leave of absence shall not be granted and cannot be purchased for any time period which begins after or extends beyond an employee's termination of employment as certified by the employer. This includes a certification of termination of employment made by an employer on a refund application. Employers shall be required to certify all leaves of absence for which credit is being requested using an affidavit furnished by IPERS and accompanied by a copy of the official record(s) which authorized the leave of absence. The provisions of this subrule denying credit for leaves of absence in cases in which the member takes a refund shall not apply to employees who were on leaves of absence that began before November 27, 1996, and took a refund before such date. The provisions of the subrule requiring employers to certify all leaves of absence using an affidavit furnished by IPERS shall apply to all requests for leave of absence credit filed after November 27, 1996, regardless of when the leave of absence was granted.

f. Effective July 1, 2008, free service credit will be given in the calculation of death benefits for members who served military duty and met the following conditions:

- (1) Served in a combat zone or hazardous duty area,
- (2) Sustained a service-related injury or disease that prevented the member from returning to IPERS-covered employment, and
- (3) Died of the service-related injury or disease within two years after suffering the injury or disease.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—7.2(97B) Vesting status.

7.2(1) General.

a. Effective July 1, 1990, through June 30, 2005, a member achieves vested status when the member has served and made contributions in 16 or more quarters of IPERS covered employment or attains the age of 55. The vested status of a member may also be determined when the member's contribution payments cease. At that time a comparison of the membership date and termination date will be made. If service sufficient to indicate vested status is present, after any periods of interruption in service have been taken into consideration, the member shall be considered a vested member. All vested members receive all

the rights and benefits of a vested member in IPERS until or unless the member files for a refund of accumulated contributions.

b. Effective July 1, 2005, a terminated nonvested member who has not attained the age of 55 shall not become vested upon attainment of the age of 55 while an inactive member. However, a member who terminates before attaining the age of 55 who has covered wages in the calendar year when the member terminates and the member attains the age of 55 in that year shall become vested, even if the member has less than 16 quarters of service credit on file at termination.

c. Effective July 1, 2012, vesting by age and vesting by service shall be determined as provided in Iowa Code section 97B.1A(25) “a” through “d.” A member who is vested by age or by service as of June 30, 2012, shall remain vested following the implementation of new vesting requirements on July 1, 2012.

7.2(2) *Inactive members who become vested due to a statutory reduction in years.* Effective July 1, 1988, an inactive member who had accumulated, as of the date of the member’s last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this rule for qualifying as a vested member on the date of termination shall be considered vested.

7.2(3) *Vesting upon complete or partial termination.* In the case of a complete or partial termination of this fund, any affected member shall have a vested interest in the accrued benefit as of the date of such termination, to the extent such benefit is then funded.

7.2(4) *Benefit nonforfeitable upon attaining normal retirement age.* For purposes of compliance with the Internal Revenue Code and related guidance, the normal retirement benefit, which is the benefit calculated under Iowa Code sections 97B.49A through 97B.49D, is nonforfeitable upon attainment of normal retirement age, which: (1) prior to July 1, 2012, is age 55 or the completion of 16 quarters of IPERS covered employment, whichever is later; and (2) for members who are not vested under one of the methods under (1) on July 1, 2012, is age 65 or completion of 28 quarters of IPERS covered employment, whichever is later. The retirement benefit is subject to the provisions of Iowa Code section 97B.52A. This subrule is not to be construed as a reduction or limitation of rights heretofore existing, nor as an indication that vested benefits would be forfeitable before the stated age is attained.

7.2(5) *Vesting at age 55 prior to July 1, 2012.* IPERS shall interpret Iowa Code section 97B.1A(25) “a”(3) as follows: for periods prior to July 1, 2012, the phrase “has attained the age of fifty-five or greater while in covered employment” means “has attained the age of fifty-five or greater while an active member, as defined in Iowa Code section 97B.1A(3)”.

7.2(6) *Vesting after June 30, 2012.* For periods after June 30, 2012, the member becomes vested if the member meets one of the following requirements:

a. For a member in a special service, has attained the age of 55 or greater while in covered employment.

b. For a member in regular service, has attained the age of 65 or greater while in covered employment.

The phrase “covered employment” means “active member” as defined by Iowa Code section 97B.1A(3).

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 4337C, IAB 3/13/19, effective 4/17/19]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(13), 97B.1A(20), 97B.1A(25), and 97B.43.

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CHAPTER 8
SERVICE PURCHASES
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—8.1(97B) Service eligible for purchase.

8.1(1) *Estimates and cost quotes.* All service purchase estimates and cost quotes shall be calculated at actuarial cost. The following procedures and calculations shall apply:

a. Service purchase estimate prior to retirement. Members who are vested by service may request a service purchase estimate by completing and submitting a service purchase application. Once the application is submitted, IPERS shall complete a cost estimate. This calculation is an estimate only and is not considered binding. The cost estimate shall be calculated as follows:

(1) IPERS will calculate the actuarial cost by capturing the projected baseline benefit attributes at the member's anticipated retirement date without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, accumulated member contributions and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span.

(2) With each potential purchasable quarterly service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each quarterly service credit will be the difference between the new reserve amount and the previous one.

b. Final service purchase cost quote at retirement. On or before the date that a member's first benefit payment is issued, a member who is vested by service may request a final service purchase cost quote by completing and submitting an application for retirement/disability benefit indicating the member's desire to receive a final service purchase cost quote. After the completed application has been submitted, IPERS shall generate a final service purchase cost quote once all of the member's wages are submitted to IPERS, which may be after the member's first month of entitlement. The final cost quote shall be calculated as follows:

(1) IPERS will calculate the cost by capturing the baseline benefit attributes at the member's first month of entitlement without any service purchase quarterly credits including: average salary, years of service, the Option 2 benefit amount, accumulated member contributions and the calculated present-day reserve value. The present-day reserve value is a lump sum value calculated with actuarial tables provided by the system's actuary which represents the lump sum value sufficient to pay the monthly benefits over the member's expected life span. With each potential purchasable service credit, IPERS will recalculate the Option 2 benefit amount. A new present-day reserve value will also be calculated. The cost of each purchasable quarter of service credit will be the difference between the new reserve amount and the previous one.

(2) The retired member will have six months from the date in which IPERS generates the final service purchase cost quote to purchase additional service.

(3) If the retired member purchases service within the six-month deadline, the increase in the retirement benefit shall be made effective with the month of the service purchase payment.

(4) Retired members who do not indicate their desire for a final service purchase cost quote on or before the date their first payment is issued or do not complete the purchase within the six-month deadline indicated on the final service purchase cost quote shall not be eligible to purchase additional credit.

(5) Retired members who selected Option 1 upon retirement may request the lump sum death benefit to be increased to take into account the additional contributions from making a service purchase. If the member requests an increase in the death benefit, the monthly benefit will be reduced to take into account the increased death benefit.

c. Cost adjustments due to changes in the original retirement benefit. If an error in the service purchase cost is discovered or a retired member's account is adjusted in any manner after a purchase is made, IPERS may rescind the service purchase, make adjustments to the service purchase cost, or adjust

the retirement allowance to ensure the member paid the actuarial cost of buying additional service. In the event that a retired member overpays due to an adjustment, IPERS will issue a refund to the retired member directly or to the rollover institution.

8.1(2) *Service credit for other public employment.*

a. A member may make application to IPERS for purchasing credit for service rendered to another public employer. In order to be eligible, a member must:

(1) Have been a public employee in a position comparable to an IPERS covered position at the time the application for buy-in is processed. Effective July 1, 1990, “public employee” includes a member who had service as a public employee in another state, or for the federal government, or within other retirement systems established in the state of Iowa; and

(2) Submit verification of service for that other public employer to IPERS.

b. A period of service is defined as follows: (1) if a member was continuously employed by an employer, the entire time is one period of employment, regardless of whether a portion or all of the service was covered by one or more retirement systems; and (2) if a member is continuously employed by multiple employers within a single retirement system, the entire service credited by that retirement system is one period of employment. A member with service credit under another public employee retirement system who wishes to transfer only a portion of the service value of the member’s public service in another public system to IPERS must provide a waiver of that service time to IPERS together with proof that the other public system has accepted this waiver and allowed partial withdrawal of service credit. Members are allowed to purchase time credited by the other public employer as a leave of absence in the same manner as other service credit. However, members wishing to receive free credit for military service performed while in the employ of a qualifying non-IPERS covered public employer must purchase the entire period of service encompassing the service time for that public employer or in the other retirement system, excluding the military time. Veterans’ credit originally purchased in another retirement system may be purchased in the same manner as other service credit.

8.1(3) *IPERS buy-back.* Members may buy back previously refunded IPERS service credit under the methodology of subrule 8.1(1).

8.1(4) *Veterans’ credit.* A member may make a service credit purchase for a period of active duty service in the armed forces of the United States if the member produces verification of active duty service in the armed forces of the United States.

8.1(5) *Legislative members.*

a. Active members. Persons who are members of the Seventy-first General Assembly or a succeeding general assembly during any period beginning July 4, 1953, may, upon proof of such membership in the general assembly, make contributions to the system for all or a portion of the period of such service in the general assembly.

b. Vested or retired former members of the general assembly.

(1) The member shall submit to IPERS proof of membership in the general assembly for the period claimed.

(2) Upon determining a member eligible and receiving the appropriate contributions from the member, IPERS shall credit the member with the period of membership service for which contributions are made.

c. Actuarial cost. Effective January 1, 2016, the member must be vested by service and must pay 40 percent and the Iowa legislature shall pay 60 percent of the actuarial cost of a service purchase, as certified by IPERS. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions, procedures and cost methods as those described in subrule 8.1(1).

8.1(6) *Employer-approved leaves of absence.* Service credit for employer-approved leaves of absence that begin on or after July 1, 1998, may be purchased.

8.1(7) *Service credit for elective coverage positions—coverage not elected.* Service credit for periods of time prior to January 1, 1999, when the member was employed in a position for which coverage could have been elected, but was not, may be purchased.

8.1(8) *Service credit for noncovered public employment in Iowa.* A member who was previously employed in public employment for which optional coverage was not available, such as substitute teaching or other temporary employment, may purchase service credit for such employment subject to

the requirements of Iowa Code section 97B.80C. Service credit may not be purchased under this subrule for periods in which the individual was performing services as an independent contractor.

[ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—8.2(97B) Revocation of service purchase application and refund of amounts paid. A member may revoke a service purchase application and receive a refund without interest of all or a portion of amounts paid to IPERS to buy back prior service credit or to purchase credit for other service pursuant to Iowa Code chapter 97B. The revocation must be made in writing and must be made within 60 days after the date of receipt of such amounts by IPERS. Such refunds shall be in increments representing one or more quarters. Furthermore, this rule shall not limit IPERS' ability to refund service purchase amounts when required in order to meet the provisions of the Internal Revenue Code that apply to IPERS. This rule shall be effective for revocation requests received by IPERS on or after May 3, 1996.

[ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—8.3(97B) IRC Section 415(n) compliance. Service purchases made under this chapter, including buy-backs and buy-ups, shall not exceed the defined contribution dollar limit then in effect under Internal Revenue Code Section 415(c)(1), per calendar year, as provided under IRC Section 415(n)(2)(B). In addition, the amounts contributed for service purchases under this chapter shall not exceed the amount required to purchase the service according to the current cost schedules. In implementing these and the other requirements of IRC Section 415(n), IPERS shall use the following procedures.

8.3(1) If the member's total benefit at retirement passes the fully reduced IRC Section 415(b) dollar limit test, IPERS shall pay the total benefit.

8.3(2) If the member's total benefit at retirement fails the fully reduced IRC Section 415(b) dollar limit test, and the member made one or more service purchases, IPERS shall perform the applicable IRC Section 415 tests, with adjustments for posttax service purchases and other posttax contributions, and pay excess amounts, if any, under a qualified benefits arrangement authorized under Iowa Code section 97B.49I.

8.3(3) IPERS permits the purchase of nonqualified service credit, as defined under IRC Section 415(n). "Nonqualified service" means:

- a. Service that is not qualified service under Iowa Code section 97B.80C; and
- b. Service for which no services were performed; and
- c. Service for which the member is entitled to receive retirement benefits under another retirement plan. A member must have 20 quarters of existing service to make such a purchase. Nonqualified service credit purchased shall not exceed 20 quarters. This limit is an aggregate limit that applies to all quarters categorized as nonqualified service credit.

8.3(4) The limitations of this rule shall apply to buy-backs of prior refunds. In addition, the annual limit under this rule shall not apply to service purchases grandfathered under the provisions of the Iowa Code and Section 1526 of the Taxpayer Relief Act of 1997.

8.3(5) If IPERS adopts rules and procedures permitting service to be purchased on a pretax basis, the amounts contributed will not be combined with posttax service purchases and other posttax contributions in applying the foregoing procedures.

8.3(6) The IRC Section 415(c) limitations shall not apply to a service purchase that qualifies as a direct rollover from an eligible retirement plan or a direct transfer from a plan qualified under IRC Section 403(b) or 457.

8.3(7) IPERS reserves the right to apply the limitations of IRC Section 415(n) on a case-by-case basis to ensure that such limits are not exceeded.

[ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—8.4(97B) Required quarters of wages on file. Rescinded ARC 4337C, IAB 3/13/19, effective 4/17/19.

495—8.5(97B) Additional information, procedures and limitations.

8.5(1) *Additional service purchase procedures.*

a. Service purchase cost quotes for members currently in special service positions shall be prepared as special service credit.

b. Members covered under another retirement plan. Members who wish to buy service credit for employment that is covered by another retirement plan qualified under IRC Section 401, IRC Section 403 or 457 and similar plans and retirement pay from the United States government for active duty in the armed forces (except retirement pay for nonregular service pursuant to 10 U.S.C. Sections 12731-12739) must waive their right to benefits based on the service credit that is being purchased under IPERS.

c. Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.82 adopted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures permitting direct rollover service purchases to include after-tax amounts as provided under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.82.

8.5(2) *Additional service purchase limitations.*

a. Under no circumstances shall service purchases be allowed for quarters already on file with IPERS as covered quarters.

b. If a member has requested a service purchase cost quote and, before the six-month expiration has passed, submits another request for a service purchase cost quote for the same or different employer, the new service purchase cost quote will be based on a combination of the two service purchase cost quotes. The latest service purchase cost quote shall supersede all prior cost quotes provided to the member for the quarters that the member purchases after the issuance of the second cost quote.

c. Self-employed and independent contractor members. Members shall not be permitted to purchase service credit for periods of self-employment or as an independent contractor.

8.5(3) *Buy-up of service credit through service purchase.* Effective July 1, 2008, IPERS members may be allowed to “buy up” service credit. The term “buy up” means to convert regular service credit to special service credit by payment of the actuarial cost pursuant to the requirements of subrule 8.1(1).

a. *Mixture of service time.* If a member’s service time contains a mixture of regular, protection and sheriff service credit, IPERS shall prepare buy-up cost quotes prior to other service credit purchases and shall process the buy-up as follows:

(1) If the member is currently employed in the sheriff class or retired as a sheriff, the cost quote shall be prepared reflecting a buy-up to sheriff service credit.

(2) If the member is not currently employed in the sheriff class or did not retire as a sheriff, the cost quote shall be prepared reflecting a buy-up to protection occupation service credit.

b. *Wage adjustment after a buy-up.* If an employer wage adjustment completely removes a member’s service credit in a buy-up quarter, IPERS shall correct the service credit and perform the necessary recalculations.

c. *IRS limitations.* Buy-up service purchases will be aggregated with buy-in and buy-back service purchases during a calendar year and shall not exceed the defined contribution dollar limit then in effect under Section 415(c) of the Internal Revenue Code. Amounts that are rolled over from other qualified plans for service purchases are excluded from these limits.

[ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—8.6(97B) Adjustments. If an error in the service purchase cost is discovered or a member’s account is adjusted in any manner after a purchase is made, IPERS may rescind the service purchase, make adjustments to the service purchase cost, or adjust the retirement allowance to ensure the active or retired member is paying the actuarial cost of buying additional service.

[ARC 1887C, IAB 2/18/15, effective 3/25/15]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(13), 97B.1A(20), 97B.43, 97B.80, 97B.80C, and 97B.82.

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CHAPTER 9 REFUNDS

[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—9.1(97B) Refunds for members with only one type of service credit. A member is eligible for a refund of the employee accumulated contributions as soon as practicable after the last date the member is considered an employee, provided that the employee has filed the required forms and has not returned to covered employment before the date the refund is paid. Effective July 1, 1999, a vested member's refund shall also include a portion of the employer accumulated contributions. Refund amounts are determined as follows:

9.1(1) Employee accumulated contributions. Upon receiving an eligible member's application for refund, IPERS shall pay to the terminated member the amount of the employee accumulated contributions currently reported to, and processed by, IPERS as of the date of the refund. Upon reconciliation of the final employee contributions for that member, a supplemental refund of the employee accumulated contributions will be paid if funds remain in the member account.

9.1(2) Employer accumulated contributions. IPERS shall also pay to vested members, in addition to the employee accumulated contributions, a refund of a portion of the employer accumulated contributions. The refundable portion shall be calculated by multiplying the employer accumulated contributions by the "service factor." The "service factor" is a fraction, the numerator of which is the member's quarters of service and the denominator of which is the "applicable quarters." The "applicable quarters" shall be 120 for regular members and 88 for all special service members.

All quarters of service credit shall be included in the numerator of the service factor. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

In addition to the foregoing provisions, IPERS shall calculate the refundable portion of the employer accumulated contributions as follows:

a. Upon reconciliation of the final employer contributions for that member, the member's portion of the employer accumulated contributions will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of employer accumulated contributions to be included in the supplemental refund.

b. The member's portion of employer accumulated contributions shall be determined under rule 495—9.2(97B) if the member had a combination of regular service and special service, or a combination of different types of special service.

9.1(3) In making calculations under this rule and rule 495—9.2(97B), IPERS shall round to not less than six decimal places to the right of the decimal point.

495—9.2(97B) Refunds for members eligible for a hybrid refund. The calculation of the member's portion of employer accumulated contributions for a "hybrid refund" shall be as follows:

9.2(1) A "hybrid refund" is a refund that is calculated for a member who has a combination of regular service and special service quarters.

9.2(2) If a member is eligible for a hybrid refund, the member's portion of employer accumulated contributions shall be calculated by multiplying the total employer accumulated contributions by: (a) the member's regular service factor, if any; and (b) the special service factor, if any (except as otherwise provided in this subrule). The amounts obtained will be added together to determine the amount of the employer accumulated contributions payable. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

9.2(3) Upon reconciliation of the final contributions from a member's employer, the member's portion of the employer accumulated contributions under this rule will be recalculated. IPERS will add the

additional quarter(s) of service to the numerator of the applicable service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of the employer accumulated contributions to be included in the supplemental refund.

9.2(4) If wages reported for a quarter are a combination of regular and special service wages, IPERS will classify the service credit for each quarter based on the largest dollar amount reported for that quarter. A member shall not receive more than one quarter of service credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

9.2(5) If a member is last employed in a sheriff or deputy sheriff position, all quarters of “eligible service” shall be counted as quarters of sheriff or deputy sheriff service credit.

9.2(6) A special limitation applies to hybrid refunds where the member and employer contributed at regular rates for quarters that are eligible for coverage under Iowa Code section 97B.49B or Iowa Code section 97B.49C. If a member has regular service credit and special service credit and any part of the special service credit consists of quarters for which only regular contributions were made, such quarters will be counted as regular service quarters. However, the foregoing limitation will not apply if the member only has service credit eligible for coverage under Iowa Code section 97B.49B or only has service credit eligible for coverage under Iowa Code section 97B.49C.

495—9.3(97B) Refund of retired reemployed members’ contributions. Rescinded IAB 7/14/10, effective 6/21/10.

495—9.4(97B) General administrative provisions. In addition to the foregoing, IPERS shall administer a member’s request for a refund as follows:

9.4(1) To obtain a refund, a member must file a refund application form, which is available directly from IPERS or which can be reprinted from IPERS’ website: www.ipers.org. Effective December 31, 2002, refund application forms shall only be available from IPERS. If the member is married, election of a refund under this chapter requires the written acknowledgment of the member’s spouse. However, the system may accept a married member’s election of a refund under this chapter without the written acknowledgment of the member’s spouse if the member submits a notarized statement affirming that, after reasonable diligent efforts, the member has been unable to locate the member’s spouse to obtain the written acknowledgment of the spouse. The member’s election of a refund shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member’s spouse, nor to any other person affected by the member’s election of a refund based upon an election of a refund accomplished without the written acknowledgment of the member’s spouse.

9.4(2) The last date the member is considered an employee and the date of the last paycheck from which IPERS contributions will be deducted must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year or the employer has provided the termination date and date of the last paycheck on the monthly wage reports filed with IPERS. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered. Unless an electronic funds transfer is requested by the member, the refund warrant will be mailed to the member at the address listed on the application for refund.

9.4(3) No payment of any kind is required under this rule if the amount due is less than \$1.

9.4(4) Effective July 1, 2004, an employee must sever all covered employment for 30 days after the date the employee was last considered an employee of a covered employer.

9.4(5) Effective November 2006, an individual who previously stopped participating in IPERS to begin participating in an alternative plan shall not receive a refund of that individual’s IPERS account while still employed by a covered employer, even if the member is no longer in IPERS covered employment.

[ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—9.5(97B) Termination of employment—refund option. If a member is involuntarily terminated from covered employment, has been issued payment for a refund, and is retroactively reinstated in covered

employment as a remedy for an employment dispute, the member may receive credit for membership service for the period covered by the refund payment upon repayment to the system, within 90 days after the date of the order or agreement requiring reinstatement, of the amount of the refund plus interest that would have accrued, as determined by the system. A reinstatement following an employment dispute shall not constitute a violation of Iowa Code section 97B.53(4), even if the reinstatement occurs less than 30 days after the date of termination.

[ARC 2402C, IAB 2/17/16, effective 3/23/16]

495—9.6(97B) Refund followed by commencement of disability benefits under Iowa Code section 97B.50(2). If a vested member terminates covered employment, takes a refund, and is subsequently approved for disability under the federal Social Security Act or the federal Railroad Retirement Act, the member may reinstate membership service credit for the period covered by the refund by paying the actuarial cost as determined in 495—subrule 8.1(1) and within 90 days after the date federal social security disability or railroad retirement disability payments begin. Repayments must be made by:

1. For members whose federal social security or railroad retirement disability payments begin before July 1, 2000, within 90 days after July 1, 2000; or
2. For members whose social security or railroad retirement disability payments begin on or after July 1, 2000, within 90 days after the date federal social security or railroad retirement payments begin.

[ARC 4337C, IAB 3/13/19, effective 4/17/19]

These rules are intended to implement Iowa Code sections 97B.50 and 97B.53.

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CHAPTER 10
INTEREST ON ACCUMULATED CONTRIBUTIONS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—10.1(97B) Interest on accumulated contributions of active and inactive members. The term “interest” as used in this rule means a per annum interest rate at one percent above the interest rate on one-year certificates of deposit which shall be credited to the member’s contributions and the employer’s contributions to become part of the accumulated contributions. For purposes of this rule, the interest rate on one-year certificates of deposit shall be determined by IPERS based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication, including Internet-based publications, of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter. Interest shall be applied through the calendar quarter preceding the quarter in which any distribution is made.

[ARC 2981C, IAB 3/15/17, effective 4/19/17]

495—10.2(97B) Erroneous contributions. Interest shall not be credited to a member’s account if the wages were reported in error.

495—10.3(97B) Interest on undistributed accumulated contributions after member’s death. Interest shall continue to accrue on the undistributed accumulated contributions of a deceased member, based on the member’s vested status at date of death, and the interest crediting method described in rule 10.1(97B). No interest shall be credited to any postretirement death benefit payable with respect to that member’s account under Iowa Code chapter 97B. If IPERS determines that a dispute among alleged heirs exists which delays the payment of death benefits on which interest would be payable, the amount of the death benefits shall be placed in a non-interest-bearing account.

495—10.4(97B) Interest on all undistributed accumulated contributions—effective January 1, 1998. Rescinded ARC 2981C, IAB 3/15/17, effective 4/19/17.

These rules are intended to implement Iowa Code sections 97B.52, 97B.53 and 97B.70.

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CHAPTER 11
APPLICATION FOR, MODIFICATION OF, AND TERMINATION OF BENEFITS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—11.1(97B) Application for benefits.

11.1(1) *Form used.* It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

- a.* Proof of date of birth for the member, if not previously verified by IPERS.
- b.* Option selected, and
 - (1) If Option 1 is selected, the death benefit amount.
 - (2) If Option 4 or 6 is selected, the contingent annuitant's name, social security number, proof of date of birth, and relationship to member. The member must designate the survivor benefit percentage, which shall be limited to one of the following:
 1. One hundred percent of the member's benefit amount.
 2. Seventy-five percent of the member's benefit amount.
 3. Fifty percent of the member's benefit amount.
 4. Twenty-five percent of the member's benefit amount.
 - (3) If Option 1, 2, or 5 is selected, a list of beneficiaries.
- c.* If the member has been terminated less than one year, or is applying for disability benefits, the employer certification page must be completed by the employer unless the employer has provided the termination date and date of the last paycheck on the monthly wage reports.
- d.* Signature of member and spouse.
- e.* If the member has no spouse, "NONE" must be designated.
- f.* If the member is applying for regular disability benefits, a copy of the award letter from the Social Security Administration or railroad retirement.
- g.* An indication whether the member is a U.S. citizen, resident alien, or non-U.S. citizen.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

11.1(2) *Proof required in connection with application.* Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver's license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver's license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

- a.* United States census record;
- b.* Military record or identification card;
- c.* Naturalization record;
- d.* A marriage license showing age of applicant in years, months and days on date of issuance;
- e.* A life insurance policy;
- f.* Records in a school's administrative office;
- g.* An official document from the U.S. Citizenship and Immigration Services, such as a "green card," containing such information;

- h.* Driver's license or Iowa nondriver identification card;
- i.* Adoption papers; or
- j.* Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.

If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

11.1(3) *Benefits estimates.* Prior to submitting an application for benefits, a member may request IPERS to prepare estimates of projected benefits under the various options as described under Iowa Code section 97B.51. A benefit estimate shall not bind IPERS to payment of the projected benefits under the various options specified in Iowa Code chapter 97B. A member cannot rely on the benefit estimate in making any retirement-related decision or taking any action with respect to the member's account, nor shall IPERS assume any liability for such actions. An estimate will not include deductions for a QDRO or any other legal assignments or orders on a member's account, unless specifically requested by the member. A member's actual benefit can only be known and officially calculated when an eligible member applies for benefits.

11.1(4) *Revocation of application.* If IPERS determines an application for benefits is invalid for any reason, IPERS shall revoke, in whole or in pertinent part, the application for benefits and the recipient shall repay all payments made under the revoked application or all payments made pursuant to the revoked part of the application. The terms of repayment shall be subject to the provisions of 495—11.7(97B).

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 9287C, IAB 5/14/25, effective 6/18/25]

495—11.2(97B) Retirement benefits and the age reduction factor.

11.2(1) *Normal retirement.*

a. A member shall be eligible for monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 65, if otherwise eligible.

b. Effective July 1, 1998, a member shall be eligible for full monthly retirement benefits with no age reduction effective with the first of the month in which the member attains the age of 62, if the member has 20 full years of service and is otherwise eligible.

c. Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55 and is otherwise eligible.

11.2(2) *Early retirement.* A member shall be eligible to receive benefits for early retirement effective with the first of the month in which the member attains the age of 55 or the first of any month after attaining the age of 55 before the member's normal retirement date, provided the date is after the last day of service and the member is otherwise eligible.

11.2(3) *Aged 70 and older retirees.* A member shall be eligible to receive monthly retirement benefits with no age reduction effective with the first day of the month in which the member attains the age of 70, even if the member continues to be employed.

11.2(4) *Required beginning date.*

a. Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the required beginning date,

even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The “required beginning date” is defined as the later of:

(1) April 1 of the year following the year that the member attains the applicable age, determined as follows:

1. For members who turned age 72 before 2023, the applicable age is age 72 (or age 70 ½ if they were born before July 1, 1949), and

2. For members who will turn age 72 after 2022 and age 73 before 2033, the applicable age is age 73; or

(2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

b. If IPERS distributes a member’s benefits without the member’s consent in order to begin benefits on or before the required beginning date, the member may elect to receive benefits under an option other than the default option described above, or as a refund, if the member contacts IPERS in writing within 60 days of the first mandatory distribution. IPERS shall inform the member which adjustments or repayments are required in order to make the change.

c. If a member cannot be located to commence payment on or before the required beginning date described above, the member’s benefit shall be forfeited. However, if a member later contacts IPERS and wishes to file an application for retirement benefits, the member’s benefits shall be reinstated.

d. For purposes of determining benefits, the life expectancy of a member, a member’s spouse, or a member’s beneficiary shall not be recalculated after benefits commence.

e. If an IPERS member has a qualified domestic relations order (QDRO) on file when a mandatory distribution is required, and the QDRO requires the member to choose a specific retirement option, IPERS shall pay benefits under the option required by the order.

11.2(5) *Mandatory distribution of small inactive accounts.* As soon as practicable after July 1, 2004, IPERS shall distribute small inactive accounts to members and beneficiaries as authorized in Iowa Code section 97B.48(5).

11.2(6) *Federal tax code limitation for selection of survivor percentages for same gender spouses.* Rescinded IAB 2/19/14, effective 3/26/14.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15; **ARC 5027C**, IAB 4/8/20, effective 5/13/20; **ARC 5489C**, IAB 3/10/21, effective 4/14/21; **ARC 7811C**, IAB 4/17/24, effective 5/22/24]

495—11.3(97B) First month of entitlement (FME).

11.3(1) *General.* A member shall submit a written application to IPERS setting forth the retirement date, provided the member has attained at least age 55 by the retirement date and the retirement date is after the member’s last day of service. A member’s first month of entitlement shall be no earlier than the first day of the first month after the member’s date of termination from employment or, if later, the month provided for under subrule 11.3(2). No payment shall be made for any month prior to the month the completed application for benefits is received by IPERS.

If a member files a retirement application but fails to select a valid first month of entitlement, IPERS will select by default the earliest month possible. A member may appeal this default selection by sending written notice of the appeal postmarked on or before 30 days after a notice of the default selection was mailed to the member. Notice of the default selection is deemed sufficient if sent to the member at the member’s address.

11.3(2) *Additional FME provisions.* Effective January 1, 2001, employees of a school corporation who are permitted by the terms of their employment contracts to receive their annual salaries in monthly installments over periods ranging from 9 to 12 months may retire at the end of a school year and receive trailing wages through the end of the contract year if they have completely fulfilled their contract obligations at the time of retirement. For purposes of this paragraph, “school corporation” means body politic described in Iowa Code sections 260C.16 (community colleges), 273.2 (area education agencies) and 273.1 (K-12 public schools). For purposes of this paragraph, “trailing wages” means previously earned wage payments made to such employees of a school corporation after the first month of entitlement.

This exception does not apply to hourly employees, including those who make arrangements with their employers to hold back hourly wages for payment at a later date, to employees who are placed on sick or disability leave or leave of absence, or to employees who receive lump sum leave, vacation leave, early retirement incentive pay or any other lump sum payments in installments.

For all employees of all IPERS-covered employers who terminate employment in January 2003, or later, if the final paycheck is paid within the same quarter or within one quarter after termination and wages are reported under the normal pay schedule, the first month of entitlement shall be the month following termination. However, if the last paycheck is paid more than one quarter after the termination, the first month of entitlement shall be the first month after the employee is paid the last paycheck. Under no circumstances shall such trailing wages result in more than one quarter of service credit being added to retiring members' earning records.

11.3(3) *Survival into designated FME.* To be eligible for a monthly retirement benefit, the member must survive into the designated first month of entitlement. If the member dies prior to the first month of entitlement, the member's application for monthly benefits is canceled and the distribution of the member's account is made pursuant to Iowa Code section 97B.52. Cancellation of the application shall not invalidate a beneficiary designation. If the application is dated later in time than any other designations, IPERS will accept the designation in a canceled application as binding until a subsequent designation is filed.

11.3(4) *Members retiring under the rule of 88.* The first month of entitlement of a member qualifying under the rule of 88 shall be the first of the month when the member's age as of the last birthday and years of service equal 88. The fact that a member's birthday allowing a member to qualify for the rule of 88 is the same month as the first month of entitlement does not affect the retirement date.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—11.4(97B) Termination of monthly retirement allowance. A member's retirement benefit shall terminate after payment is made to the member for the entire month during which the member's death occurs. Death benefits shall begin with the month following the month in which the member's death occurs.

Upon the death of the retired member, IPERS will reconcile the decedent's account to determine if an overpayment was made to the retired member and if further payment(s) is due to the retired member's named beneficiary, contingent annuitant, heirs at law or estate. If an overpayment has been made to the retired member, IPERS will determine if steps should be taken to seek collection of the overpayment from the named beneficiary, contingent annuitant, estate, heirs at law, or other interested parties.

495—11.5(97B) Bona fide retirement and bona fide refund.

11.5(1) *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into verbal or written arrangements with the member's former employer(s) to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee

beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS' bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office as a part-time elected official or a member of the general assembly and the member's term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, 2023, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement, and the member shall not perform any duties for the member's former employer(s) as an independent contractor prior to receiving one month of retirement benefits.

11.5(2) *Bona fide refund.* For a member to be eligible for a lump sum refund, the member must terminate the member's covered employment and incur a bona fide separation from service and remain out of employment for at least 30 days with all covered employers. The 30-day bona fide refund period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the refund. Such an official may remain in the elective office and receive an IPERS refund without violating IPERS' bona fide refund rules. If such elected official terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a refund as of the date of hire, the refund shall not be made. Furthermore, if such elected official is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the public official shall not be eligible for new IPERS coverage for such elected position.

The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official is reelected to the same position without an intervening term out of office. The waiver granted in this subrule shall be applicable to such elected officials who were in violation of the prior bona fide refund rules on and after November 1, 2002, when such individuals have not repaid the previously invalid refund.

If a member takes a refund in violation of the bona fide refund requirements of Iowa Code section 97B.53(4), the member may return the refund during the bona fide retirement period and restore the member's account. If the repayment is not made, the member shall receive no credit for the period covered

by the refund. At retirement, the member may purchase, at actuarial cost, the service credit covered by the refund.

11.5(3) *Part-time appointed members of boards or commissions receiving minimal noncovered wages.* Solely for purposes of determining whether a member has severed all employment with all covered employers and has remained out of employment as required under Iowa Code section 97B.52A, persons who have been appointed as part-time members of boards or commissions prior to or during their first month of entitlement and who receive only per diem and reimbursements for reasonable business expenses for such positions will be deemed not to be in employment prohibited under Iowa Code section 97B.52A.

For purposes of this subrule, per diem shall not exceed the amount authorized under Iowa Code section 7E.6(1) “a” for members of boards, committees, commissions, and councils within the executive branch of state government. This limit shall apply regardless of whether or not the position in question is within the executive branch of state government.

Members of boards and commissions not exempted under this subrule include: (a) those who are entitled to the payment of per diem regardless of attendance at board or commission meetings, and (b) those who would have received per diem in excess of the amount authorized under Iowa Code section 7E.6(1) “a” were it not for an agreement by the member to waive such compensation.

Persons appointed as part-time board or commission members who receive only per diem as set forth above and reimbursements of reasonable business expenses may continue in or accept appointments to such positions without violating the bona fide retirement rules under Iowa Code section 97B.52A.

11.5(4) *Members of the national guard who are called into state active duty.* Effective May 25, 2008, members of the national guard who are called into state active duty as defined in Iowa Code section 29A.1 in noncovered positions during the required period of complete severance will not be in violation of the bona fide retirement requirements of Iowa Code section 97B.52A.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 4100C, IAB 10/24/18, effective 11/28/18; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 6949C, IAB 3/8/23, effective 4/12/23]

495—11.6(97B) Payment processing and administration.

11.6(1) *Monthly paper warrants processing fee.* Effective July 1, 2005, IPERS shall charge a \$1 per-warrant processing fee to members who choose to receive paper warrants in lieu of electronic deposits of their monthly retirement allowance. The fee may be waived if the person establishes that it would be an undue hardship for the person to do what is necessary to receive payment of the person’s IPERS monthly retirement allowance by electronic deposit. The processing fee will be deducted from the member’s retirement allowance on a posttax basis.

For purposes of this subrule, a member claiming undue hardship must establish that the cost normally assessed for the processing of paper warrants would be unduly burdensome because of the member’s limited income, or is otherwise financially burdensome or physically impracticable.

11.6(2) *Repeated requests for replacement warrants.* Effective July 1, 2002, for a member or beneficiary who, due to the member’s or beneficiary’s own actions or inactions, has benefits warrants replaced twice in a six-month period, except when the need for a replacement warrant is caused by IPERS’ failure to mail to the address specified by the recipient, payment shall be suspended until such time as the recipient establishes a direct deposit account in a bank, credit union or similar financial institution and provides IPERS with the information necessary to make electronic transfer of said monthly payments. Persons subject to said cases may be required to provide a face-to-face interview and additional documentation to prove that such a suspension would result in an undue hardship.

11.6(3) *Forgery claims.* When a forgery of a warrant issued in payment of an IPERS refund or benefit is alleged, the claimant must complete and sign an affidavit before a notary public that the endorsement is a forgery. A supplementary statement must be attached to the affidavit setting forth the details and circumstances of the alleged forgery.

11.6(4) *Rollover fees.* Effective January 1, 2007, if the recipient of a lump-sum distribution which qualifies to be rolled over requests that a rollover be made to more than one IRA or other qualified plan, IPERS may assess a \$5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax.

11.6(5) *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.

11.6(6) *Lump sum paper warrants processing fee.* Effective April 1, 2012, and thereafter, IPERS shall charge \$1 for paper warrants issued in payment of all nonrecurring lump sum distributions. If a nonrecurring lump sum distribution is followed by a supplemental lump sum distribution due to the reporting of additional covered wages, the \$1 processing fee shall also be charged. This \$1 processing fee shall not apply to a direct rollover described under Iowa Code section 97B.53B (however, processing fees may be charged for multiple rollover requests), lump sum mandatory account distributions required under Iowa Code section 97B.48(5), mandatory lump sum distributions required under Internal Revenue Code Section 401(9), or warrants reissued in forged endorsement or other fraudulent payment situations.

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 7811C, IAB 4/17/24, effective 5/22/24]

495—11.7(97B) Overpayment of IPERS benefits.

11.7(1) *Overpayments—general.*

a. An “overpayment” means a payment of money by IPERS that results in a recipient receiving a higher payment than the recipient is entitled to under the provisions of Iowa Code chapter 97B.

b. A “recipient” is a person or beneficiary, heir, assign, or other successor in interest who receives an overpayment from an IPERS benefit and is liable to repay the amount(s) upon receipt of a written explanation and request for the amounts to be repaid.

c. If IPERS determines that the cost of recovering the amount of an overpayment is estimated to exceed the overpayment, the repayment may be deemed to be unrecoverable.

d. If the overpayment is equal to or less than \$50 and cannot be recovered from other IPERS payments, IPERS may limit its recovery efforts to written requests for repayment and other nonjudicial remedies.

11.7(2) *Overpayment made to a retired member.* A retired member shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and a limited opportunity to repay the overpayment in full without interest. If a retired member repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. A retired member may repay an overpayment out of pocket or direct IPERS to recover the overpayment from future retirement benefit payments, or a combination of both. If the retired member cannot repay an overpayment in full, either out of pocket or from the next monthly installment of retirement benefits, or both, interest shall be charged. A retired member who cannot repay the full amount of the overpayment within 30 days after the date of the notice must enter into an agreement with IPERS to make monthly installment payments, or to have the overpayment offset against future monthly benefit payments or death benefits, if any, and authorize any unpaid balance as a first priority claim in the recipient's estate.

11.7(3) *Overpayment made to a person other than a retired member.* A recipient other than a retired member, except a recipient listed in subrule 11.5(2), shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. If such a recipient repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. If such a recipient cannot repay an overpayment in full within 30 days after the date of the notice, interest shall be charged. If repayment in full cannot be made within 30 days, such a recipient shall make repayment arrangements subject to IPERS' approval within 30 days of the written notice and request for repayment.

If the overpayment recipient cannot be located to receive notice of the overpayment at the recipient's last-known address, IPERS shall, after trying to locate the person, consider the recipient to have waived entitlement to the quarters covered by the refund.

11.7(4) *Interest charges.*

a. *Overpayment not fraudulent.* If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.5(2), was not the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of

5 percent, or the rate IPERS determines, on the outstanding balance, beginning 30 days after the date of notice of the overpayment(s) is provided by IPERS.

b. Overpayments in violation of Iowa Code section 97B.40 or 715A.8. If the overpayment of benefits, other than an overpayment that results from a violation described in subrule 11.5(2), was the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 7 percent on the outstanding balance, beginning on the date of the overpayment(s).

c. Overpayments that result in a judgment. In addition to other remedies, IPERS may file a civil action to recover overpayments, and the interest rate may be set by the court.

11.7(5) Recovery of overpayment from a deceased recipient. If a recipient dies prior to the full repayment of an erroneous overpayment of benefits, IPERS shall be entitled to apply to the estate of the deceased to recover the remaining balance.

11.7(6) Offsets against amounts payable. IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code section 421.65.

11.7(7) Rights of appeal. A recipient who is notified of an overpayment and required to make repayments under this rule may appeal IPERS' determination in writing to the CEO or CEO's designee. The written request must explain the basis of the appeal and must be received by IPERS' office within 30 days of overpayment notice pursuant to 495—Chapter 26.

11.7(8) Release of overpayment. IPERS may release a recipient from liability to repay an overpayment, in whole or in part, if IPERS determines that the receipt of overpayment is not the fault of the recipient, and that it would be contrary to equity and good conscience to collect the overpayment. No release of an individual recipient's obligation to repay an overpayment shall stand as precedent for release of another recipient's obligation to repay an overpayment.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 3684C, IAB 3/14/18, effective 4/18/18; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 6949C, IAB 3/8/23, effective 4/12/23; ARC 7811C, IAB 4/17/24, effective 5/22/24]

These rules are intended to implement Iowa Code sections 97B.4, 97B.9A, 97B.15, 97B.25, 97B.38, 97B.40, 97B.45, 97B.47, 97B.48, 97B.48A, 97B.49A to 97B.49I, 97B.50, 97B.51, 97B.52, 97B.52A, 97B.53, and 97B.53B.

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CHAPTER 12
CALCULATION OF MONTHLY RETIREMENT BENEFITS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—12.1(97B) General.

12.1(1) *Formula benefit versus money purchase benefit.* If a member is vested by years of service credit in IPERS, a monthly payment allowance will be paid in accordance with the formulas set forth in Iowa Code sections 97B.49A through 97B.49I, the applicable paragraphs of this chapter, and the option the member elects pursuant to Iowa Code section 97B.51(1). IPERS shall determine on the applicable forms which designated fractions of a member's monthly retirement allowance payable to contingent annuitants shall be provided as options under Iowa Code section 97B.51(1). Any option elected by a member under Iowa Code section 97B.51(1) must comply with the requirements of the Internal Revenue Code that apply to governmental pension plans, including but not limited to Internal Revenue Code Section 401(a)(9). If a member is not vested by years of service credit in IPERS, the benefit receivable will be computed on a money purchase basis, with reference to annuity tables used by IPERS in accordance with the member's age and option choice.

12.1(2) *Reduction for early retirement for regular class members.*

a. Effective July 1, 1988, through December 31, 2000, a member's benefit formula will be reduced by .25 percent for each month the member's retirement precedes the normal retirement date, as defined in Iowa Code section 97B.45 excluding section 97B.45(4). The following are situations in which a member is considered to be taking early retirement:

(1) If a member has not attained the age of 65 in the member's first month of entitlement and has less than 20 years of service; or

(2) If a member has not attained the age of 62 in the month of the member's retirement and has 20 years of service.

b. Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55.

c. Effective July 1, 1991, a member qualifying for early retirement due to disability under Iowa Code section 97B.50 shall not be subject to a reduction in benefits due to age.

d. If a member retires with at least 20 years of service but has not attained the age of 62, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the month in which the member attains the age of 62. If a member retires with less than 20 years of service, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the month in which the member attains the age of 65.

e. Effective January 1, 2001, the age reduction shall be calculated by deducting .25 percent per month for each month that the first month of entitlement precedes the earliest possible normal retirement date for that member based on the age and years of service at the member's actual retirement.

f. For the portion of the member's retirement allowance based on service through June 30, 2012, the early retirement reduction shall be calculated as provided in paragraphs 12.1(2)"a" through "e." For the portion of the retirement allowance based on years of service beginning July 1, 2012, and later, the member's early retirement reduction shall be one-half of one percent for each month that the early retirement precedes the date the member attains age 65.

12.1(3) *Early retirement date for regular class members.* A member's early retirement date shall be the first day of the month of the fifty-fifth birthday or any following month before the normal retirement date, provided that date is after the member's termination date.

12.1(4) *Benefit formulas for members retiring on or after July 1, 2012.*

a. For each member retiring on or after July 1, 2012, who is vested by service, the monthly benefit will be equal to one-twelfth of an amount equal to 60 percent of the final average covered wage multiplied by a fraction of years of service.

b. For all active and inactive vested members, the monthly retirement allowance shall be determined on the basis of the formula in effect on the date of the member's retirement. If the member takes early retirement, the benefit shall be adjusted as provided in subrule 12.1(2).

c. In addition to the 60 percent multiplier identified above, regular class members who retire with years of service in excess of 30 years shall have the percentage multiplier increased by .25 percent for each quarter of a year in excess of 30, not to exceed an increase of 5 percent.

d. In addition to the 60 percent multiplier identified above, protection occupation members, sheriffs, and deputy sheriffs who retire with years of service in excess of 22 years shall have the percentage multiplier increased by .375 percent for each quarter of a year in excess of 22, not to exceed an increase of 12 percent.

e. Regular service does not count as "eligible service" in determining a special service member's applicable percentage.

12.1(5) *Average covered wages for special service members and for wages of regular class members prior to July 2012.*

a. "Three-year average covered wage" means a member's covered calendar year wages averaged for the highest three years of the member's service. However, for the member's final year of wages, IPERS may determine the wages for the third year by computing the final quarter or quarters of wages to complete the year. The computed year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the three high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters to complete a full calendar year. If the member's final quarter of wages will reduce the three-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The computed year wages shall not exceed the Internal Revenue Service maximum covered wage in effect for that calendar year. Furthermore, the computed year shall not exceed the member's highest actual calendar year of covered wages by more than 3 percent. Effective July 1, 2007, a member's high three-year average wage shall be the greater of (1) the member's high three-year average covered wage based on covered wages reported through June 30, 2007; or (2) the member's high three-year average covered wage after application of the antispiking control as described in paragraph 12.1(5) "b" below.

b. Antispiking limit on the growth of a member's high three-year average.

(1) Selection of the control year shall give highest priority to calendar years of wages in which there are four quarters of service credit for wages on file not used in the high three-year average wage calculation. For example, if the member receives \$20,000 of wages for a calendar year with four quarters of service credit for wages, and the member also has received \$30,000 of wages for a calendar year with three quarters of service credit for wages, the control year selection process shall give preference to the calendar year with \$20,000 of reported wages.

(2) If there is a calendar year of covered wages outside the high three-year average wage calculation that has four quarters, but the covered wages for that year are less than the covered wages for the fourth highest calendar year of covered wages, and that fourth highest calendar year of covered wages does not have four quarters of service credit for wages, the control year will be the lowest of the high three calendar years of wages with service credits for wages in all four quarters being used in the high three-year average wage calculation.

(3) "Service credit for wages" means service credit recorded for:

1. Quarters in which the member receives covered wages from covered employment.
2. Quarters in which the member is credited with covered wages due to a military leave.
3. Quarters in which the member would have had covered wages but for the application of the IRS covered wage limitations.

4. Quarters in which an employee of a nine-month institution receives service credit for a qualifying leave of absence under 495—subrule 7.1(2).

5. Quarters in which a legislator, legislative employee, or elected official receives service credit for employment.

(4) If none of the calendar years of wages that fall outside of the high three-year average wage calculation have service credit for wages reported in all four quarters, the control year will then be the lowest of the high three calendar years of wages with service credit for wages in all four quarters being used in the high three-year average wage calculation.

(5) If none of the wage years used in the high three-year average wage calculation have service credits for wages reported in all four quarters, the control year will then revert to the highest calendar year of wages not included in the high three-year average wage calculation, regardless of whether there are fewer than four quarters with service credits for wages on file.

(6) For high three-year average wage calculations that utilize the computed year, the control year may be the calendar year from which the “average quarters” used in the computed year are drawn. However, the control year cannot be the computed year, as the computed year will never be a calendar year with service credit for wages in all four quarters.

c. Effective July 1, 2012, a nonvested regular class member’s average covered wage shall be the member’s five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A) “a.”

d. Effective July 1, 2012, for regular class members vested as of June 30, 2012, the member’s average covered wage shall be the greater of the member’s three-year average covered wage calculated as provided under paragraphs 12.1(5) “a” and “b,” or the member’s five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A) “a.” The “five-year average covered wage” means a member’s covered calendar year wages averaged for the highest five years of the member’s service. However, in the member’s final year of wages, IPERS may determine the wages for the fifth year by computing the final quarter or quarters of wages to complete the year. The computed year wages shall not exceed the Internal Revenue Service maximum covered wage in effect for that calendar year. Furthermore, the computed year shall not exceed the member’s highest actual calendar year of covered wages by more than 3 percent. A full fifth year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the five high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters of wages to complete a full calendar year. If the member’s final quarter of wages will reduce the five-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The five-year average covered wage cannot exceed the highest Internal Revenue Service maximum covered wages in effect during the member’s service. In addition, the average five-year salary is restricted to an antispiking limit of 134 percent of the highest sixth year of wages.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.2(97B) Initial benefit determination.

12.2(1) The initial monthly benefit for the retired member will be calculated utilizing the wages that have been reported as of the member’s retirement and subject to the requirements of subrule 12.1(5). When the final quarter(s) of wages is reported for the retired member, a recalculation of benefits will be performed by IPERS to redetermine the member’s benefit amount. In cases where the recalculation determines that the benefit will be changed, the adjustment in benefits will be made retroactive to the first month of entitlement. The wages for the “computed year” shall not exceed the highest covered wage ceiling in effect during the member’s period of employment.

12.2(2) In cases where the member’s final quarter’s wages have been reported to IPERS prior to retirement, the original benefit will be calculated utilizing all available wages.

12.2(3) The Option 1 death benefit amount cannot exceed the member’s investment and cannot lower the member’s benefit below the minimum distribution required by federal law.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.3(97B) Hybrid formula for members with more than one type of service credit.

12.3(1) Eligibility. Effective July 1, 1996, members having both regular and special service (as defined in Iowa Code section 97B.1A(22)) shall receive the greater of the benefit amount calculated under this subrule or the benefit amount calculated under the applicable nonhybrid benefit formula.

a. Members who are vested by service as defined in Iowa Code section 97B.1A(25) “d” may utilize the hybrid formula.

b. The following classes of members are not eligible for the hybrid formula:

- (1) Members who have only regular service credit.
- (2) Members who have 22 years of special service credit.
- (3) Members who have 30 years of regular service.
- (4) Members who are not vested by service as defined in Iowa Code section 97B.1A(25) “d.”

12.3(2) Assumptions. IPERS shall utilize the following assumptions in calculating benefits under this rule.

a. The member’s average covered wage shall be determined in the same manner as it is determined for the nonhybrid formula.

b. Increases in the benefit formula under this rule shall be determined as provided under Iowa Code section 97B.49D. The percentage multiplier shall only be increased for total years of service over 30.

c. Years of service shall be utilized as follows:

(1) Quarters which have two or more occupation class codes shall be credited as the class that has the highest reported wage for said quarter. A member shall not receive more than one quarter of credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

(2) Quarters shall not be treated as special service quarters unless the applicable employer and employee contributions have been made.

12.3(3) Years of service fraction not to exceed one.

a. In no event shall a member’s years of service fraction under the hybrid formula exceed, in the aggregate, one.

b. If the years of service fraction does, in the aggregate, exceed one, the member’s quarters of service credit shall be reduced until the member’s years of service fraction equals, in the aggregate, one.

c. Service credit shall first be subtracted from the member’s regular service credit and, if necessary, shall next be subtracted from the member’s special service credit.

12.3(4) Age reduction. The portion of the member’s benefit calculated under this rule that is based on the member’s regular service shall be subject to a reduction for early retirement. In calculating the age reduction to be applied to the portion of the member’s benefit based on the member’s regular service, the system shall use all quarters of service credit, including both regular and special service quarters.

12.3(5) Calculations. A member’s benefit under the hybrid formula shall be the sum of the following:

a. The applicable percentage multiplier divided by 22 times the years of special service credit times the member’s high three-year average covered wage, plus

b. The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member’s high three-year average prior to July 1, 2012, or the member’s high five-year average after June 30, 2012, covered wage minus the applicable wage reduction (if any).

c. If the sum of the percentages obtained exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member’s applicable percentage multiplier in the order specified in paragraph 12.3(3) “c.”

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.4(97B) Money purchase benefits.

12.4(1) For each member not vested by service as defined in Iowa Code section 97B.1A(25) “d,” a monthly annuity shall be determined by applying the total member and employer’s accumulated contributions as of the effective retirement date to the annuity tables in use by the system according to the member’s age (or member’s and contingent annuitant’s ages, if applicable).

12.4(2) For each vested member for whom the present value of future benefits under Option 2 is less than the member reserve as of the effective retirement date, a monthly annuity shall be determined by applying the member reserve to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable).

12.4(3) For calculations under subrule 12.4(1), Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member's total reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system's tables to determine the monthly amount. For calculations under subrule 12.4(2), Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system's tables to determine the monthly amount.

12.4(4) For Option 1, the cost per \$1,000 of death benefit shall be determined according to the system's tables. That cost shall be subtracted from the Option 3 monthly amount to determine the Option 1 monthly benefit amount. The Option 1 death benefit amount shall be reduced as necessary so that the Option 1 monthly benefit amount is not less than one-half of the Option 2 monthly benefit amount.

12.4(5) For members retiring after June 30, 2012, the money purchase benefit calculated pursuant to this rule shall be provided to members who are not vested by service as defined in Iowa Code section 97B.1A(25) "d."

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.5(97B) Recalculation for a member aged 70. A member remaining in covered employment after attaining the age of 70 years may receive a retirement allowance without terminating the covered employment. A member who is in covered employment, attains the age of 70 and begins receiving a retirement allowance must terminate all covered employment before the member's retirement allowance can be recalculated to take into account service after the member's original FME. The termination of employment must be a true severance lasting at least 30 days. The formula to be used in recalculating such a member's retirement allowance depends on the date of the member's FME and the member's termination date, as follows:

If the member is receiving a retirement allowance with an FME prior to July 1, 2000, and terminates covered employment on or after January 1, 2000, the member's retirement formula for recalculation purposes shall be the formula in effect at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation.

In all other cases, the recalculation for a member aged 70 who retires while actively employed shall use the retirement formula in effect at the time of the member's FME.

Payments under this rule shall begin no earlier than the month following the month of termination, upon IPERS' receipt of a member's application for recalculation. It is the member's responsibility to apply for the recalculation by completing and submitting the form specified by IPERS.

A member receiving a recalculation under this rule after June 30, 2012, will have the member's average covered wage calculated as follows. IPERS will calculate the average high three covered wage as of June 30, 2012. IPERS will next calculate the average high five covered wage at the time of the member's termination from covered employment or, if later, the date the member applies for a recalculation. IPERS will determine the benefit amount based on the calculation that produces the greatest benefit to the member.

[ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.6(97B) Level payment choice for special service members. A level payment choice is created effective July 1, 2002. IPERS shall implement the level payment choice by preparing factors to convert nonhybrid IPERS Options 1, 2, 3, 4, and 5 to the level payment choice. The new benefit feature applies solely to special service members, and any reference to members in this rule shall only apply to special service members.

12.6(1) Member's social security retirement amount. Calculations of a member's level payment choice shall be based on the member's social security retirement amount at age 62 as verified by Social Security Administration statements provided by the member. No adjustments shall be made if subsequent social security statements indicate an increase in the age 62 social security retirement amount. Verification

of the social security benefits shall not precede the member's first month of entitlement by more than 12 months.

12.6(2) *Death benefit assumptions.* In preparing level payment choice factors, IPERS shall assume:

a. For IPERS Options 1 and 2, death benefits under those options shall not be reduced as a result of a member's attaining the age of 62 and having the member's monthly allowance reduced under this rule.

b. For IPERS Options 4 and 5, IPERS shall assume that the contingent annuitant's or beneficiary's monthly payments and death benefits, if any, prior to the date the member attains, or would have attained, age 62 shall be based on the amount that was payable to the member for periods before the member attains, or would have attained, age 62. Beginning with the month after the month that the member attains, or would have attained, age 62, a contingent annuitant's or beneficiary's monthly payments and death benefits, except death benefits under IPERS Options 1 and 2, shall be based on the reduced amount that would have been payable to the member in the month after the month that the member attained age 62.

12.6(3) *Favorable experience dividends.* An eligible member's or beneficiary's favorable experience dividend, if any, shall be based on the member's or beneficiary's level payment choice monthly amount as of the preceding December 31.

12.6(4) *Prohibitions.* The following special service members shall be prohibited from receiving benefits under this rule:

a. Those who retire under Iowa Code section 97B.49D, 97B.50(2), or 97B.50A.

b. Those who retire under Option 6.

c. Those who request a level payment amount that reflects less than a full offset for the social security retirement amount at age 62.

d. Those reemployed in covered employment and subsequently retiring, for the period of reemployment. A member who has elected the level payment choice shall have retirement benefits calculated solely for the period of reemployment, except for vesting credit.

12.6(5) *Limit on reductions.* The level payment choice factors shall not reduce the monthly amount payable to a member at age 62 to less than 50 percent of the monthly amount that would have been payable under IPERS Option 2. Accordingly, payments before age 62 to such members shall be reduced in the same manner, with the corresponding adjustments made to death benefits.

12.6(6) *Commencement of level payment option reduction.* The monthly benefit of a member who selects the level payment option shall be reduced beginning with the month after the member reaches age 62.

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.7(97B) Reemployment of retired members.

12.7(1) Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. Effective March 23, 2022, this reduction is not required until the member earns the amount of remuneration permitted for a calendar year as defined in Iowa Code section 97B.48A. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 12.7(2).

Effective January 1, 1991, this earnings limitation does not apply to covered employment as an elected official. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

12.7(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 12.7(1) shall be reduced as follows:

a. A member's monthly retirement allowance in the following calendar year shall be reduced by the excess benefit paid in the preceding year after the excess benefit payment amount has been determined.

b. Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year's wage payments on a month-to-month basis. These reports shall be used

by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

c. The member's overpayment shall be collected as follows:

(1) IPERS will reduce the member's gross monthly benefit by 50 percent until the overpayment is repaid. If the 50 percent reduction will not recover the overpayment by the end of the current calendar year, IPERS will calculate the monthly reduction amount so that the overpayment will be recovered within the current calendar year. Other monthly reduction amounts may be made by an agreement in writing between the member and IPERS; or

(2) A member may elect to make repayments of the overpayment amounts out of pocket in lieu of having the member's monthly benefit reduced. An out-of-pocket repayment may be made in one check or in installments. However, an election to make repayment in installments must be agreed to in writing between the member and IPERS.

(3) If a member dies and the full amount of overpayment determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which there are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member's estate.

(4) A member may elect in writing to have the member's monthly retirement allowance suspended in the month in which the member's remuneration exceeds the amount of remuneration permitted under this subrule in lieu of receiving a reduced retirement allowance under subparagraph (1). In order to become effective, the member's written election must be delivered to IPERS in person, by regular mail, email, facsimile or by private carrier. Oral elections shall not be accepted. The member's election to suspend benefit payments in the month when the member's remuneration exceeds the amount of reimbursement permitted under this subrule shall remain in effect for all subsequent calendar years until revoked by the member in writing. If the member's written election is not received in time to avoid overpayment, the overpayment must be recovered, to the extent possible, from monthly amounts beginning in January of the next calendar year or under one of the alternate arrangements permitted under this rule. Effective July 1, 2007, remuneration shall include those amounts as described in 495—subrule 6.3(13).

12.7(3) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased, if possible, by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retired member. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30, divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS.

Effective July 1, 1998, a member who is reemployed in covered employment after retirement may, after again terminating employment for at least 30 days, elect to receive a refund of the employee and employer contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related service credit shall be forfeited.

Effective July 1, 2007, employer contributions described in 495—subrule 6.3(13) shall constitute "remuneration" for purposes of applying the reemployment earnings limit and determining reductions in the member's monthly benefits but shall not be considered covered wages for IPERS benefits calculations.

It is the member's responsibility to apply for the recomputation or lump sum by completing and submitting the form specified by IPERS.

12.7(4) In recomputing a retired member's monthly benefit, IPERS shall use the following assumptions.

a. The member cannot change the option or beneficiary with respect to the reemployment period.

b. If the member would only qualify for a money purchase benefit under rule 495—12.4(97B) based solely on the period of reemployment, then the money purchase formula shall be used to compute the additional benefit amount due to the reemployment.

c. If the member would qualify for a non-money purchase retirement allowance based solely on the period of reemployment, the benefit formula in effect as of the first month of entitlement (FME) for

the reemployment period shall be used. If the FME is July 1998 or later, and the member has more than 30 years of service, including both original and reemployment service, the percentage multiplier for the reemployment period only will be at the applicable percentage (up to 65 percent) for the total years of service.

d. If a period of reemployment would increase the monthly benefit a member is entitled to receive, the member may elect between the increase and a refund of the employee and employer contributions without regard to reemployment FME.

e. If a member previously elected IPERS Option 1, is eligible for an increase in the Option 1 monthly benefits, and elects to receive the increase in the member's monthly benefits, the member's Option 1 death benefit shall also be increased if the investment is at least \$1,000. The amount of the increase shall be at least the same percentage of the maximum death benefit permitted with respect to the reemployment as the percentage of the maximum death benefit elected at the member's original retirement. In determining the increase in Option 1 death benefits, IPERS shall round up to the nearest \$1,000. For example, if a member's investment for a period of reemployment is \$1,900 and the member elected at the member's original retirement to receive 50 percent of the Option 1 maximum death benefit, the death benefit attributable to the reemployment shall be \$1,000 (50 percent times \$1,900, rounded up to the nearest \$1,000). Notwithstanding the foregoing, if the member's investment for the period of reemployment is less than \$1,000, the benefit formula for a member who originally elected new IPERS Option 1 shall be calculated under IPERS Option 3.

f. A retired reemployed member who requests a return of the employee and employer contributions made during a period of reemployment cannot repay the distribution and have the service credit for the period of reemployment restored.

g. If a retired reemployed member selected IPERS Option 5 at retirement, and after the period of reemployment requests an increase in the member's monthly allowance, at death all remaining guaranteed payments with respect to both periods of employment shall be paid in a commuted lump sum.

h. If a retired reemployed member selected IPERS Option 2 at retirement, and after the period of reemployment requests an increase in the member's monthly allowance, at death the member's monthly payments following the increase shall be prorated between the member's two annuities to determine the amount of the member's remaining accumulated contributions that may be paid as a death benefit.

i. A retired reemployed member who has attained the age of 70 may take an actuarial equivalent (AE) payment. However, such a member must terminate covered employment for at least 30 days before taking an additional AE payment.

12.7(5) Mandatory distribution of active wages. If a retired reemployed member whose annual benefit would be increased by less than \$600 does not request a second annuity or a lump sum payment of reemployment accruals by the end of the fourth quarter after the last quarter in which the member had covered wages, IPERS shall proceed to pay the member the applicable lump sum amount. The member shall have 60 days after the postmark date of the mandatory payment to return the payment and request a benefit increase.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21; ARC 6949C, IAB 3/8/23, effective 4/12/23]

495—12.8(97B) Actuarial equivalent (AE) payments.

12.8(1) If a member aged 55 or older requests an estimate of benefits which results in a monthly benefit amount under Option 2 of less than \$50, the member shall receive, under Iowa Code section 97B.48(1), a lump sum actuarial equivalent (AE) payment in lieu of a monthly benefit. Once the AE payment has been paid to the member, the member shall not be entitled to any further benefits based on the contributions included in the AE payment and the employment period represented thereby. If the member later returns to covered employment, any future benefits the member accrues shall be based solely on the new employment period. If an estimate of benefits based on the new employment period again results in any one of the options having a monthly benefit amount of less than \$50, the member may again elect to receive an AE payment.

12.8(2) If a member, upon attaining the age of 70 or later, requests a retirement allowance without terminating employment and the member's monthly benefit amount under Option 2 is less than \$50, the member shall receive an AE payment based on the member's employment up to, but not including, the quarter in which the application is filed. When the member subsequently terminates covered employment, any benefits due to the member will be based only on the period of employment not used in computing the AE paid when the member first applied for a retirement allowance. If an estimate of benefits based on the later period of employment again results in a monthly benefit amount under Option 2 of less than \$50, the member shall receive another AE payment. However, a member who elects to receive an AE payment upon or after attaining age 70 without terminating employment may not elect to receive additional AE payments unless the member terminates all covered employment for at least one full calendar month.

12.8(3) An AE payment under this rule shall be equal to the sum of the member's and employer's accumulated contributions.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—12.9(97B) Conforming rules for lump sum payments. Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.53B enacted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures affording payees of lump sum distributions with broader rollover rights as permitted under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.53B.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(24), 97B.15, 97B.25, 97B.45, 97B.47 to 97B.48A, 97B.49A to 97B.49I, 97B.51, and 97B.53B.

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CHAPTER 13
DISABILITY FOR REGULAR AND SPECIAL SERVICE MEMBERS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—13.1(97B) Disability for persons retiring under Iowa Code section 97B.50(2).

13.1(1) For IPERS members retiring because of a disability:

a. The member must be awarded federal social security benefits due to a disability which existed on or before the member's first month of entitlement.

b. Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the federal Railroad Retirement Act, 45 U.S.C. Section 231 et seq., due to a disability which existed at the time of retirement.

c. The period for which up to 36 months of retroactive payments under Iowa Code section 97B.50(2) shall be paid is for up to 36 months preceding the month in which such completed application for IPERS disability is received by IPERS. In no event shall retroactive disability benefits payments under Iowa Code section 97B.50(2) precede the month the member actually receives the member's first social security or railroad retirement disability payment. The member shall provide IPERS with a copy of the Social Security Administration or railroad retirement award letter showing dates of eligibility.

d. Continued qualification monitoring.

(1) For a member retiring due to a disability under Iowa Code section 97B.50(2), on or after July 1, 2009, the member shall provide IPERS with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

IPERS shall suspend the disability benefits of any member if the records required are not timely provided.

(2) The annual certification of continued eligibility for federal social security disability benefits or railroad retirement disability benefits is not required as of the calendar year the member reaches normal retirement age as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service.

13.1(2) If a member returns to covered employment after achieving a bona fide retirement, the benefits being provided to the member under Iowa Code section 97B.50(2) "a" or "b" shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member has attained the age of 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The suspension or reduction of benefits for returning to covered employment no longer applies as of the calendar year the member reaches normal retirement age, as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

13.1(3) Upon terminating a reemployment that resulted in the suspension of all or a portion of the member's disability retirement allowance, the member's benefits shall be recomputed under Iowa Code section 97B.48A and rule 495—12.8(97B). To requalify for a monthly retirement allowance under Iowa Code section 97B.50(2), the member must furnish a new or updated Social Security Administration disability award letter, or other acceptable documentation from the Social Security Administration, indicating that the member is currently eligible for social security disability benefits.

13.1(4) If a member whose IPERS disability benefits were suspended because of the member's return to covered employment provides proof acceptable to IPERS that the member remains eligible for

federal social security disability benefits or railroad retirement disability benefits, IPERS shall reinstate the member's disability benefits, subject to the member's continued compliance with paragraph 13.1(1) "d."

[ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21]

495—13.2(97B) Disability claim process for special service members. 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 495—13.1(97B).

13.2(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.

13.2(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 have the authority to 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.

13.2(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 in writing of the appointment and shall be 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. 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.

13.2(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.

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.

13.2(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.

13.2(6) *Fast-track review.* IPERS' disability retirement benefits officer may refer any case to IPERS' chief benefits officer (CBO) for fast-track review. The CBO or the CBO's designee 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.

13.2(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 business days after a complete file has been returned to IPERS for the initial disability determination.

13.2(8) *General benefits provisions.* Effective July 1, 2000, 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 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.

13.2(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.
- c. A presumption shall exist that a special service member contracted a disease while on active duty only if the disease is defined by Iowa Code section 97B.50A(2) "c" as amended by 2010 Iowa Acts, House File 2518, section 31. If a presumption exists, IPERS may, in making its determination as to whether a disability was incurred while the member was on active duty, go forward with evidence to rebut the presumption. IPERS can rebut the presumption when credible evidence exists to the contrary or when the requirements are met in Iowa Code section 97B.50A(2) "c" as amended by 2010 Iowa Acts, House File 2518, section 31. Under no circumstances shall the burden of proof shift from the special service member to IPERS.

13.2(10) *Appeal rights.* The member or the employer, or both, may appeal IPERS' initial disability determination. Within 30 days after the notification of IPERS' initial disability determination was mailed, the member shall submit to IPERS' CEO or CEO's designee a notice of appeal in writing setting forth:

- a. The name, address, and social security number of the member or employee number of the employer;
- b. A reference to the decision from which the appeal is being made;
- c. The fact that an appeal from the decision is being made;
- d. The grounds upon which the appeal is based;
- e. Additional medical or other evidence to support the appeal; and
- f. The request that a different decision be made by IPERS.

The system shall conduct an internal review of the initial disability determination, and the CEO or CEO's designee shall notify in writing the party who filed the appeal of IPERS' final disability determination with respect to the appeal. The CEO or CEO's designee 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 495—Chapter 26.

13.2(11) *Notice of abuse of disability benefits.* The system has the obligation and full authority to investigate allegations of abuse of disability benefits. The system, in its sole discretion, may initiate investigations in the absence of a complaint. 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, in IPERS' sole discretion, as may be deemed necessary. 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.

13.2(12) *Qualification for social security or railroad retirement disability benefits.* Upon qualifying for social security or railroad retirement disability benefits, a special service member may contact the system to have the member's disability benefits calculated under Iowa Code section 97B.50(2). The member and spouse must complete the designated application to stop having benefits calculated under Iowa Code section 97B.50A and to start having benefits calculated under Iowa Code section 97B.50(2). The decision 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.

13.2(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, in order to continue qualification for IPERS special service disability benefits. IPERS may suspend the benefits of any such member if such records are not timely provided. This subrule does not apply to a member who is at least 55 years of age and would have completed 22 years of service if the member had remained in active special service employment.

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 member's dependents.

13.2(14) *Offset to allowance.* A member who retires under Iowa Code section 97B.50A shall have benefits reduced by other disability-related payments the member receives for the same disability, including, but not limited to, benefits from:

- a. Social security.
- b. Long-term disability insurance.
- c. Workers' compensation, subject to the limitations set forth in Iowa Code section 97B.50A(5) "b" and "c."
- d. Unemployment insurance.
- e. Employer-paid disability plans, programs, or policies.
- f. Other laws.

For purposes of calculating the income offsets required under Iowa Code section 97B.50A, IPERS shall convert any lump sum workers' compensation award, disability insurance payments, or similar lump sum awards for the same illnesses or injuries to an actuarial equivalent, as determined by IPERS. IPERS shall convert any monthly, weekly, or other stated period workers' compensation award, disability insurance payments, or other awards for the same illnesses or injuries, dollar-for-dollar, to the same monthly, weekly, or other stated period, as determined by IPERS.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 0662C, IAB 4/3/13, effective 5/8/13; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 6215C, IAB 2/23/22, effective 3/30/22]

These rules are intended to implement Iowa Code sections 97B.50 and 97B.50A.

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CHAPTER 14
DEATH BENEFITS AND BENEFICIARIES
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—14.1(97B) Internal Revenue Code limitations. The death benefits payable under Iowa Code sections 97B.51 and 97B.52 shall not exceed the maximum amount possible under Internal Revenue Code Section 401(a)(9).

To ensure that the limit is not exceeded, a member's combined lump sum death benefit under Iowa Code sections 97B.52(1) and 97B.52(2) shall not exceed 100 times the Option 2 amount that would have been payable to the member at the member's earliest normal retirement age. If a beneficiary of a special service member is eligible for an in-the-line-of-duty death benefit, any reduction required under this rule shall be taken first from a death benefit payable under Iowa Code section 97B.52(1). The "100 times" limit shall apply to active and inactive members. The death benefits payable under this chapter for a period of reemployment for a retired reemployed member who dies during the period of reemployment shall also be subject to the limits described in this rule.

The maximum claims period for IPERS lump sum death benefits shall not exceed the period required under Internal Revenue Code Section 401(a)(9), which may be less than five years for a member who dies after the member's required beginning date, unless the beneficiary is a spouse. The claims period for all cases in which the member's death occurs during the same calendar year in which a claim must be filed under this rule shall end April 1 of the year following the year of the member's death.

A member's beneficiary or heir may file a claim for previously forfeited death benefits. Interest, if any, for periods prior to the date of the claim will only be credited through the quarter that the death benefit was required to be forfeited by law. Interest for periods following the quarter of forfeiture will accrue beginning with the quarter that the claim for reinstatement is received by IPERS. For death benefits required to be forfeited in order to satisfy Section 401(a)(9) of the federal Internal Revenue Code, in no event will the forfeiture date precede January 1, 1988. IPERS shall not be liable for any excise taxes imposed by the Internal Revenue Service on reinstated death benefits.

Effective January 14, 2004, all claims for a previously forfeited death benefit shall be processed under the procedure set forth at rule 495—14.6(97B).

The system recognizes the validity of same gender marriages executed in Iowa on or after April 27, 2009, if the domestic relations order or other assignment otherwise meets the system's minimum requirements for such orders; the system shall modify the tax treatment of distributions under such orders as required by the federal laws governing such distributions. IPERS shall adopt such rules and procedures as are deemed necessary to fully implement the provisions of this rule. The Iowa Supreme Court decision recognizing same gender marriages in Iowa specifically states that this recognition does not extend to same gender marriages of other states. The system recognizes the validity of same gender marriages based on the U.S. Supreme Court's decision in *United States v. Windsor*, 133 S.Ct. 2675 (2013) and the direction of Rev. Rul. 2013-17 and IRS Notice 2014-19. IPERS shall recognize the federal tax treatment of distributions as required by the sources listed in this paragraph.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 1348C, IAB 2/19/14, effective 3/26/14; ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.2(97B) Survival into first month of entitlement. When a member who has filed an application for retirement benefits and has survived into the first month of entitlement dies prior to the issuance of the first benefit check, IPERS will pay the death benefit allowed under the retirement option elected by the member in the application for retirement benefits.

495—14.3(97B) Designation of beneficiaries.

14.3(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. Members may also designate their beneficiary through the IPERS website. The designation of a beneficiary by a retiring member on the

application for monthly benefits revokes all prior designation of beneficiary forms. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member's estate or, if applicable, to the member's heirs if no estate is probated. A funeral home shall not be designated as a beneficiary.

14.3(2) *Deceased beneficiary.* If a named beneficiary predeceased the member, that beneficiary's share shall be paid to the surviving named beneficiaries in equal shares.

14.3(3) *Change of beneficiary.* The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. Members may also change their beneficiary through the IPERS website. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

14.3(4) *Spousal signature.* If the member designates someone other than a spouse as the sole primary beneficiary, the beneficiary designation form must contain a spousal signature, pursuant to Iowa Code section 97B.44. If a member's spouse cannot be located, the spousal signature requirement may be waived upon receipt of the notarized form specified by IPERS.

[ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 4337C, IAB 3/13/19, effective 4/17/19; ARC 5027C, IAB 4/8/20, effective 5/13/20; ARC 5489C, IAB 3/10/21, effective 4/14/21]

495—14.4(97B) Applications for death benefits. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, or if a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access together with information establishing the claimant's right to payment. A named beneficiary must complete an IPERS application for death benefits based on the deceased member's account. If the claimant's claim is based on dissolution of marriage that revoked the IPERS beneficiary designation, the claim must be processed pursuant to rule 495—14.16(97B).

[ARC 1887C, IAB 2/18/15, effective 3/25/15; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.5(97B) Commuted lump sums.

14.5(1) *Designated beneficiary is an estate, trust, church, charity, or similar organization.* Where the designated beneficiary is an estate, trust, church, charity or similar organization, or is a person, such as a trustee, executor, or administrator who has been appointed to receive funds on behalf of such entities, payment of benefits shall be made in a lump sum only.

14.5(2) *Multiple beneficiaries.* Where multiple beneficiaries have been designated by the member, payment, including the payment of the remainder of a series of guaranteed annuity payments, shall be made in a lump sum only. The lump sum payment shall be paid to the multiple beneficiaries in equal shares.

14.5(3) *Guaranteed payments.* Where a member has selected Option 5 and dies before receiving all guaranteed payments, and the member's designated beneficiary also dies before all guaranteed payments are made, any remaining guaranteed payments shall be paid in a commuted lump sum.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10]

495—14.6(97B) Payment of the death benefit when no designation of beneficiary or an invalid designation of beneficiary form is on file. When no designation of beneficiary or an invalid designation of beneficiary form is on file with IPERS, payment shall be made in one of the following ways.

14.6(1) Where the estate is open, payment shall be made to the administrator or executor where said executor or administrator shall be duly appointed and serving under Iowa Code chapter 633 or 635.

14.6(2) Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits, payment will be made in accordance with the intestacy laws of the state of Iowa. If someone other than those identified pursuant to the intestacy laws of the state of Iowa claims entitlement to a death benefit, an estate must be opened and the death benefit shall be payable to the administrator or executor of the estate.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.7(97B) Waiver of beneficiary rights. A named beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would have been entitled. The waiver of the rights shall occur prior to the receipt of a payment from IPERS to the beneficiary. The waiver of rights shall be binding and will be executed on a form provided by IPERS. The waiver of rights may be general, in which case payment shall be divided equally among all remaining designated beneficiaries or, if there are none, to the member's estate. The waiver of rights may also expressly be made in favor of one or more of the member's designated beneficiaries or the member's estate. If the waiver of rights operates in favor of the member's estate and no estate is probated or claim made, or if the executor or administrator expressly waives payment to the estate, payment shall be paid to the member's surviving spouse unless there is no surviving spouse or the surviving spouse has waived the surviving spouse's rights. In that case, payment shall be made to the member's heirs excluding any person who waived the right to payment. Any waiver filed by an executor, administrator, or other fiduciary must be accompanied by a release acceptable to IPERS indemnifying IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by an executor, administrator, or other fiduciary.

495—14.8(97B) Beneficiaries under the age of 18. Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is \$25,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a single beneficiary is less than \$25,000.

495—14.9(97B) Simultaneous deaths. IPERS will apply the provisions of the Uniform Simultaneous Death Act, Iowa Code sections 633.523 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

495—14.10(97B) Felonious deaths. IPERS will apply the provisions of the Felonious Death Act, Iowa Code sections 633.535 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

495—14.11(97B) No interest on postretirement death benefits. Interest is only accrued on a member's death benefit if the member dies before the member's first month of entitlement (FME) or, for a retired reemployed member, before the member's reemployment FME, and is only accrued with respect to the retired or retired reemployed member's accumulated contributions account.

495—14.12(97B) Preretirement death benefits.

14.12(1) *Death prior to first month of entitlement.* Where an active member, or an inactive member vested by service, dies prior to the first month of entitlement, the lump sum death benefit shall be the greater of the amount provided in subrule 14.12(3) or 14.12(4). Sole beneficiaries may elect, in lieu of the lump sum amount, to receive a single life annuity that is the actuarial equivalent of such lump sum amount. Where an inactive member, not vested by service, dies prior to the first month of entitlement, the lump sum death benefit shall be as provided in subrule 14.12(7).

14.12(2) *Death benefits under Iowa Code section 97B.52(1).*

a. *Definitions.*

“Accrued benefit” means the monthly amount that would have been payable to the deceased member under IPERS Option 2 at the member’s earliest normal retirement age, based on the member’s covered wages and service credits at the date of death. If a deceased member’s wage record consists of a combination of regular and special service credits, the monthly amount that would have been payable to the deceased member under Option 2 at the member’s earliest normal retirement age shall be determined separately for regular and special service credits, and then combined.

“Nearest age” means a member’s or beneficiary’s age expressed in whole years, after rounding for partial years of age. Ages shall be rounded down to the nearest whole year if less than six complete months have passed following the month of the member’s or beneficiary’s last birthday, and shall be rounded up if six complete months or more have passed following the month of the member’s or beneficiary’s last birthday.

b. Process for applying.

(1) A claim for a single life annuity under this subrule must be filed as follows:

1. A nonspouse beneficiary must file a claim for a single life annuity within 12 months of the member’s death.

2. A beneficiary who is a surviving spouse must file a claim for a single life annuity within 12 months of the member’s death, or by the date that the member would have attained the age of 72, whichever period is later.

(2) Elections to receive the lump sum amount or single life annuity shall be irrevocable once the first payment is made.

(3) No further benefits will be payable following the death of any beneficiary who qualifies and elects to receive the single life annuity provided under this subrule.

(4) The provisions of this subrule shall not apply to members who died before January 1, 2001.

14.12(3) *Accumulated contributions lump sum benefit.* An accumulated contribution lump sum death benefit is equal to the accumulated contributions of the member plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the “applicable denominator,” as provided in Iowa Code section 97B.52(1) “a.” The calculation of the highest year of covered wages shall use the highest calendar year of covered wages reported to IPERS.

14.12(4) *Present value lump sum.* A lump sum death benefit equal to the present value of the member’s accrued benefit is calculated as follows:

a. IPERS shall calculate a member’s retirement benefit at earliest normal retirement age under IPERS Option 2, based on the member’s covered wages and service credits at the date of death and the retirement benefit formula in effect in the month following the date of death.

b. For purposes of determining the “member date of death annuity factor” under the conversion tables supplied by IPERS’ actuary, IPERS shall assume that “age” means the member’s nearest age at the member’s date of death.

c. For purposes of determining the “member unreduced retirement annuity factor” under the conversion tables supplied by IPERS’ actuary, IPERS shall assume that “age” means the member’s nearest age at the member’s earliest normal retirement date. If a member had already attained the member’s earliest normal retirement date, IPERS shall assume that “age” means the member’s nearest age at the date of death.

14.12(5) *Single life annuity benefit.* Procedures and assumptions for converting the actuarial equivalent of a lump sum death benefit to a single life annuity are as follows:

a. For purposes of determining the “age of beneficiary annuity factor” under the conversion tables supplied by IPERS’ actuary, IPERS shall assume that “age” means the beneficiary’s nearest age as of the beneficiary’s first month of entitlement.

b. A beneficiary’s first month of entitlement is the month after the date of the member’s death.

c. Effective for claims filed after June 30, 2004, no retroactive payments of the single life annuity shall be made under this subrule.

d. Effective for claims filed after June 30, 2004, the beneficiary whose single life annuity is less than \$600 per year shall be able to receive only the lump sum payment under this rule.

e. Any sole beneficiary who is eligible for and elects to receive a single life annuity under this subrule shall also qualify for the favorable experience dividend (FED) payments authorized under rule 495—15.2(97B), subject to the requirements of that rule.

14.12(6) Retired reemployed members and aged 70 members who retire without terminating employment. Preretirement death benefits for retired reemployed members and aged 70 members who retire without terminating employment shall be calculated as follows:

a. For beneficiaries of such members who elect IPERS Option 4 or 6 at retirement, IPERS shall recompute (for retired reemployed members) or recalculate/recompute (for aged 70 members who retired without terminating employment) the member's monthly benefits as though the member had elected to terminate employment as of the date of death, to have the member's benefits adjusted for postretirement wages, and then lived into the recomputation or recalculation/recomputation (as applicable) first month of entitlement.

b. The recomputation provided under paragraph 14.12(6)“a” shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member's monthly benefit would have been increased by the period of reemployment, and is subject to the limitations of Iowa Code sections 97B.48A, 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. The recalculation/recomputations provided under paragraph 14.12(6)“a” shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member's monthly benefit would have been increased by the period of employment after the initial retirement, and is subject to the limitations of Iowa Code sections 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. In all other cases, including cases where members previously received a lump sum payment under Iowa Code section 97B.48(1) in lieu of a monthly retirement allowance, preretirement death benefits under this paragraph shall be the lump sum amount equal to the accumulated employee and accumulated employer contributions.

c. Beneficiaries of members who had elected IPERS Option 4 or 6 may also elect to receive the accumulated employer and accumulated employee contributions described in paragraph 14.12(6)“b” in lieu of the increased monthly annuity amount. Notwithstanding paragraph 14.12(6)“b” above, if the member elected IPERS Option 5 at retirement, the lump sum amount payable under this paragraph shall be the greater of the applicable commuted lump sum or the accumulated employee and accumulated employer contributions.

14.12(7) Inactive member; not vested by service death benefit.

a. For deaths occurring after June 30, 2004, and before July 1, 2012, for inactive members who have less than 16 quarters of service credit, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1)“a,” and shall only be payable in lump sum amounts. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

b. For deaths occurring after June 30, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1)“a” and shall only be payable in lump sum amounts for inactive members who are not vested by service. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 2402C, IAB 2/17/16, effective 3/23/16; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.13(97B) Procedures for deaths of certain voluntary emergency services personnel occurring in the line of duty. Effective July 1, 2006, for a member who dies while performing the functions of a voluntary emergency services provider as described under Iowa Code section 85.61 or 147A.1, benefits for deaths occurring in the line of duty shall be paid pursuant to Iowa Code section 100B.31.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.14(97B) Rollovers by nonspouse beneficiaries. Effective January 1, 2007, nonspouse beneficiaries shall be permitted to request a direct rollover of such beneficiaries' death benefit payments to traditional IRA accounts established in accordance with Section 829 of the Pension Protection Act of 2006 and IRS Notice 2007-7. IPERS shall determine the amount eligible for direct rollover under IRC Section 401(a)(9), if any, and the procedural requirements for requesting such rollovers. It shall be the beneficiaries' responsibility to determine that the recipient IRAs meet the structural and operational

requirements of Section 829 and Notice 2007-7. IPERS shall bear no responsibility for rollovers to IRA accounts that fail to meet such requirements.

Effective January 1, 2008, IPERS will also allow rollovers under this rule to Roth IRA accounts established in accordance with the structural and operational requirements of Section 829 and Notice 2007-7.

[ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.15(97B) Required minimum distribution (RMD) basic calculation.

14.15(1) The RMD for a member who retired under an option with a lump sum death benefit and died after the member's required beginning date (RBD) is calculated as follows:

a. Step 1. Determine the number of payments remaining for the calendar year in which the member died. The current month's payment is not used in this calculation.

b. Step 2. Multiply the number of remaining payments determined in Step 1 by the gross amount of the member's last monthly payment to get the RMD amount. If the lump sum death benefit is less than the RMD, then the RMD is the lump sum death benefit amount.

c. Step 3. Determine the total non-RMD amount by subtracting the RMD as determined in Step 2 from the lump sum death benefit.

d. The eligible rollover amount is the total non-RMD amount as determined in Step 3.

14.15(2) In order to allocate nontaxable amounts between RMD and non-RMD, the calculation is performed as follows:

a. Nontaxable amounts are allocated first to the RMD portion of the lump sum death benefit.

b. If the nontaxable amounts are greater than the RMD amount, the remaining nontaxable amounts are allocated to the non-RMD portion of the lump sum amount.

c. If the nontaxable amounts are less than the RMD amount, the remaining portion of the RMD amount is composed of taxable amounts.

[ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.16(97B) Beneficiary revocation pursuant to Iowa Code section 598.20B, dissolution of marriage. IPERS is not liable for the payment of death benefits to a beneficiary pursuant to a beneficiary designation that has been revoked or reinstated by a divorce, annulment, or remarriage before IPERS receives the written notice set forth in subrule 14.16(1). Furthermore, IPERS shall only be liable for payments made after receipt of such written notice if the written notice is received at least ten calendar days prior to the payment.

14.16(1) *Form of notice.* The written notice shall include the following information:

a. The name of the deceased member,

b. The name of the person(s) whose entitlement to IPERS death benefits is being challenged,

c. The name, address, and telephone number of the person(s) asserting an interest,

d. A statement that the decedent's divorce, annulment, or remarriage revoked the entitlement of the person(s) whose status is being challenged to the IPERS death benefits in question, and

e. A copy of the divorce decree upon which the claim is based.

In addition to the above information, if the person whose entitlement is being challenged is not the former spouse, the written notice must indicate that the person was related to the former spouse, but not the member, by blood, adoption or affinity, and state the nature of the relationship.

14.16(2) *Delivery of notice.* Written notice under this rule must be addressed to IPERS General Counsel and mailed to IPERS by registered mail or served upon IPERS in the same manner as a summons in a civil action.

14.16(3) *Administration.* Upon receipt of written notice that meets the requirements of subrules 14.16(1) and 14.16(2):

a. IPERS shall review the deceased member's account and determine if there are moneys left to be distributed from the account.

b. IPERS shall pay the amounts owed, if any, to the probate court having jurisdiction over the decedent's estate, if the deceased member has an open estate.

c. IPERS shall pay the amounts owed, if any, to the probate court that had or would have had jurisdiction over the decedent's estate, if the deceased member's estate is closed or an estate was not opened.

d. As IPERS makes applicable payments, a copy of the written notice received by IPERS shall be filed with the probate court.

If the probate court charges a filing fee for the deposit of amounts payable hereunder, IPERS shall deduct such filing fees and other court costs from the amounts payable prior to transfer. The probate court shall hold the funds and, upon its determination, shall order disbursement or transfer in accordance with the determination. Additional filing fees and court costs, if any, shall be charged upon disbursement either to the recipient or against the funds on deposit with the probate court, in the discretion of the court.

14.16(4) Release of claims. Payments made to a probate court under this rule shall discharge IPERS from all claims by all persons for the value of amounts paid the court.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 8929B, IAB 7/14/10, effective 6/21/10; ARC 9068B, IAB 9/8/10, effective 10/13/10; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—14.17(97B) Procedures for final distribution to heirs who have filed claims. If a claimant has identified other persons in the claimant's group who would be entitled to a share of the member's death benefit, but such persons have not filed a claim within five years after the member's death, or by the date required under IRC Section 401(a)(9) if earlier, the remainder of the member's death benefit shall be paid in pro rata shares to the claimants who were previously paid a share of the death benefit. In order to comply with the applicable IRS limitations, the final payments under this rule shall be made by December 31 of the fifth year that begins after the member's date of death, or by December 31 of the year that distribution is required under IRC Section 401(a)(9), if earlier. The sole recourse of any claimant who is a member of a group receiving payments hereunder or of any lower-numbered group that should have received all of such payments shall be against the claimants of the group that received death benefit payments.

This rule is intended to implement Iowa Code sections 97B.44 and 97B.52.

[ARC 6215C, IAB 2/23/22, effective 3/30/22]

These rules are intended to implement Iowa Code sections 97B.1A(8), 97B.1A(18), 97B.1A(19), 97B.34, 97B.34A, 97B.44, 97B.52 and 97B.53B and 2000 Iowa Acts, chapter 1077, section 75.

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CHAPTER 15 DIVIDENDS

[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—15.1(97B) Dividend payments for beneficiaries of members retiring prior to July 1, 1990, who chose joint and survivor annuity options.

15.1(1) *November dividend adjustment.* Effective July 1, 2008, in order to determine whether the adjustment to dividend payments is payable under Iowa Code section 97B.49F(1) “b,” an IPERS actuary shall compare the actuarially required contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that same fiscal year and certify the results to IPERS. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the applicable percentage used to calculate dividend adjustments shall be zero.

15.1(2) *General.* The dividend payable to the beneficiary of a pre-July 1, 1990, retired member who selected a joint and survivor annuity option, except for the year of the member’s death and the next year, is calculated in the same manner as for retired members.

For a member who lives into November of the year in which the member dies, the dividend will be payable to the member’s account.

15.1(3) *Dividend for the years in which member’s death occurs.* For a member who does not live into November of the year in which the member dies, the dividend payable for the year in which the member dies is calculated the same as it would have been calculated for the deceased retired member. The dividend amount that would have been payable to the deceased retired member is then multiplied by the survivor annuity percentage selected for the contingent annuitant (CA) in the member’s retirement application.

15.1(4) *Dividend for the year following the year of the retired member’s death.* For a member who does not live into November of the year in which the member dies, the dividend payable in the year following the year of the member’s death is calculated as follows. The sum of the survivor’s monthly benefit payments received for the year in which the member’s death occurs is divided by the number of survivor benefit payments for that year, and that amount is multiplied by 12. That amount plus the member’s survivor’s prior dividend is then multiplied by the dividend rate for the year following the year of the member’s death, which equals the dividend adjustment for the year following the year of the member’s death. This dividend adjustment plus the prior year’s dividend produces the dividend amount for the year following the year of the member’s death.

15.1(5) *Examples.*

a. Dividend for the year of the member’s death. The following assumptions are made. The member retired in 1989 and selected a joint and 50 percent to survivor annuity. The retired member received a monthly payment of \$1,000, and died in June 2002. The member received \$12,000 in monthly benefits for January through December 2001. The member received a dividend of \$500 in 2001, and the dividend rate is 3 percent for 2002.

2001 total monthly benefits		2001 dividend amount		2002 dividend rate		2002 dividend adjustment		2001 dividend amount		Dividend payable amount		CA%		CA 2002 dividend
\$12,000.00	+	\$500.00	×	3%	=	\$375.00	+	\$500.00	=	\$875.00	×	50%	=	\$437.50

b. Dividend for the year following the year of the member’s death. The following assumptions are made. The member retired in 1989 and selected a joint and 50 percent to survivor annuity. The retired member received a monthly payment of \$1,000, and died in June 2002. The survivor received \$500 each month for July through December of 2002 for a total of \$3,000. The survivor received a dividend of \$437.50 in 2002, and the dividend rate is 3 percent for 2003.

2002 total monthly benefits for CA		Total of payments for CA 2002		Twelve months for 2002		2002 dividend amount		2003 dividend rate		2003 dividend adjustment		2002 dividend amount		Dividend payable to CA for 2003
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$$\$3,000.00 \div 6 \text{ months} \times 12 \text{ months} + \$437.50 \times 3\% = \$193.13 + \$437.50 = \$630.63$$

[ARC 7759B, IAB 5/6/09, effective 4/17/09; ARC 7916B, IAB 7/1/09, effective 8/5/09]

495—15.2(97B) Favorable experience dividend (FED) under Iowa Code section 97B.49F(2). For members retiring on and after July 1, 1990, dividends are payable as follows.

15.2(1) *Allocation of favorable experience.* The system shall, following the first annual actuarial evaluation in which IPERS is found to be fully funded, determine by rule the allocation of 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.

Effective July 1, 2006, IPERS shall in no event credit amounts attributable to favorable experience to the FED reserve account, unless IPERS is fully funded and will remain fully funded after such amounts are credited to the FED reserve account. "Fully funded" means that the funded ratio as determined under Iowa Code section 97B.1A(11A) remains at least 100 percent following the allocation of favorable experience to the FED reserve account.

15.2(2) *Determination of applicable percentage.* The system 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 system'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 retired members under Iowa Code section 97B.49F(1). Notwithstanding the foregoing, the system 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 system 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 system shall make its annual applicable percentage decisions using at least a rolling five-year period.

c. If for any year the system cannot afford an applicable percentage equal to that payable to retired members under Iowa Code section 97B.49F(1), the system may use applicable percentages in succeeding years that are higher than those used in calculating dividends for retired members 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.

15.2(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 system 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 retired member, beneficiary, or contingent annuitant for the previous December, or such other month as determined by the system, 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 system. 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 495—paragraph 12.8(2) "c," the suspension shall have no effect on the calculation of FED.

15.2(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 a person whose death occurs during the applicable calendar year.

Effective July 1, 2000, a retired member 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.

15.2(5) *Limit on transfers of favorable experience.* Rescinded IAB 11/22/06, effective 12/27/06.

15.2(6) *Determination of sufficiency of FED reserve account.* The system is charged in Iowa Code section 97B.49F(2) “d” with determining whether the reserve account is sufficiently funded to make a distribution. The system shall make this determination in the following manner.

a. The system shall declare the value of the FED reserve account balance as specified in the Allocation of Net Assets Held in Trust in the financial statements for the fiscal year that ended immediately preceding a January FED payment. The value shall include, but is not limited to, investment income and expenses and certain noninvestment income that are properly recorded for the FED reserve balance based on standard accounting rules used to determine a final balance at the conclusion of a fiscal year.

b. The above-declared reserve account balance shall be compared to the total estimated FED payment for the following January as calculated pursuant to rule 495—15.2(97B) utilizing a 1 percent multiplier.

c. The reserve account shall be declared not sufficiently funded when the estimated FED payment as determined in paragraph “b” of this subrule is equal to or greater than the declared reserve account balance as defined in paragraph “a” of this subrule.

15.2(7) *Determination of FED distribution if reserve account is not sufficiently funded.*

a. When the system has determined pursuant to subrule 15.2(6) that the reserve account is not sufficiently funded, the system shall declare a multiplier to be used in the formula pursuant to rule 495—15.2(97B) that is best estimated to approximate a full distribution of the declared reserve account balance as of the preceding June 30 fiscal year end.

b. No investment gains or losses shall change this balance between July 1 and the FED payment in January of the fiscal year in which the remaining balance of the reserve account will be paid by IPERS.

c. Any remaining reserve account balance shall be credited among the membership groups in the net assets held in trust, and the reserve account balance will be zero at the end of the fiscal year in which a FED payment is made pursuant to this subrule.

d. Any funds the system collects from a FED payment to a member or beneficiary because of an erroneous FED payment made by IPERS shall be deposited in the IPERS trust fund.

e. Payments under this subrule will represent a final distribution of the balance of the reserve account as determined in rule 495—15.2(97B) effectively halting any future FED payment, unless and until the reserve account is funded again pursuant to subrule 15.2(1).

f. No claim or administrative appeal will be allowed under this subrule if made more than 30 calendar days following the date on which IPERS made a FED payment to a member or beneficiary based upon the date of the EFT or the date IPERS mailed a state warrant to the member or beneficiary.

g. No payment will occur after January 31 in the year of the FED payment under this subrule for any adjustment to any previous fiscal years’ FED payment to a member or beneficiary.

[ARC 0662C, IAB 4/3/13, effective 5/8/13]

These rules are intended to implement Iowa Code sections 97B.1A(11A), 97B.49F and 97B.70.

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CHAPTER 16
DOMESTIC RELATIONS ORDERS AND OTHER ASSIGNMENTS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—16.1(97B) Garnishments and income withholding orders.

16.1(1) For the limited purposes of this rule, the term “member” includes IPERS members, beneficiaries, contingent annuitants and any other third-party payees to whom IPERS is paying a monthly benefit or a lump sum distribution.

16.1(2) A member’s right to any payment from IPERS is not transferable or assignable and is not subject to execution, levy, attachment, garnishment, or other legal process, including bankruptcy or insolvency law, except for the purpose of enforcing child, spousal, or medical support.

16.1(3) Only members receiving payment from IPERS, including monthly benefits and lump sum distributions, may be subject to garnishment, attachment, or execution against funds that are payable. Such garnishment, attachment, or execution is not valid and enforceable for members who have not applied for and have not been approved to receive funds from IPERS.

16.1(4) Upon receipt of an income withholding order issued by the Iowa department of human services or a court, IPERS shall send a copy of the withholding order to the member. If a garnishment has been issued by a court, the party pursuing the garnishment shall send a notice pursuant to Iowa law to the member against whom the garnishment is issued.

16.1(5) IPERS shall continue to withhold a portion of the member’s monthly benefit as specified in the initial withholding order until instructed by the court or the Iowa department of human services issuing the order to amend or cease payment. IPERS shall continue to withhold a portion of the member’s monthly benefit as specified in the garnishment until the garnishment expires or is released.

16.1(6) Funds withheld or garnished are taxable to the member. IPERS may assess a fee of \$2 per payment in accordance with Iowa Code section 252D.18A(2). The fee will be deducted from the gross amount, less federal and state income tax, before a distribution is divided.

16.1(7) A garnishment, attachment or execution may not be levied upon funds which are already the subject of a levy, including a levy placed upon funds by the United States Internal Revenue Service, unless the requirements of IRC Section 6334(a)(8) are met. Multiple garnishments, attachments and executions are allowed as long as the amount levied upon does not exceed the limitations prescribed in 15 U.S.C. Section 1673(b).

16.1(8) IPERS may release information relating to entitlement to funds to a court or to the Iowa department of human services prior to receipt of a valid garnishment, attachment, execution, or income withholding order when presented with a written request stating the information requested and reasons for the request. This request must be signed by a magistrate, judge, or child support recovery unit director or the director’s designee, including an attorney representing the Iowa department of human services. In addition, IPERS may release information to the Iowa department of human services through automated matches.

495—16.2(97B) Domestic relations orders. This rule shall apply only to marital property orders. All support orders shall continue to be administered under rule 495—16.1(97B).

16.2(1) Definitions.

“*Alternate payee*” means a spouse or former spouse, regardless of gender, 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.

“*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 QDRO.

“Domestic relations order” means any judgment, decree, or order which relates to the provision of marital property rights to a spouse or former spouse, regardless of gender, 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” or *“QDRO”* means a domestic relations order that divides the marital property of former spouses and assigns to a former spouse 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.

“Successor alternate payee” means a person or persons named in a domestic relations order prior to July 1, 2019, to receive the amounts payable to the former spouse alternate payee under the QDRO if the alternate payee dies before the member. Successor alternate payees must be named individuals, not a class of individuals, a trust or an estate.

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

16.2(2) Requirements.

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

(1) Clearly specifies the member’s name and last-known mailing address, member identification number or social security number, and the names and last-known mailing addresses and social security numbers of alternate payees. This information shall be provided to IPERS on IPERS’ 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;

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

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

(6) Conforms IPERS with IRS reporting requirements for distributions to successor alternate payees. Prior to July 1, 2019, the taxable portion and basis will be prorated to each respective recipient if the payee is the alternate payee. If the payee is a successor alternate payee, the taxable portion and basis will be borne by the member, pursuant to IRC Pub. L. 99-514, 100 Stat. 2085, enacted October 22, 1986. Effective July 1, 2019, a domestic relations order must conform IPERS with IRS reporting requirements for distributions to alternate payees. The taxable portion and basis will be prorated to each respective recipient; and

(7) Is clearly signed by the judge and filed with the clerk of court. IPERS will consider an order duly signed if it carries an original signature, a stamp bearing the judge’s signature, an electronic clerk-of-court stamp and judge’s signature page via the electronic data management system (EDMS) or is conformed in accordance with local court rules.

b. Prohibited provisions. A domestic relations order is not a QDRO 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 QDRO;

(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 subparagraph 16.2(2) “c”(2);

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

(7) Appoints a successor alternate payee after June 30, 2019.

c. Permitted provisions. A QDRO 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 or 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, or cost-of-living increase or any other postretirement benefit increase to the member (all known as 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 the 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. If a member applies for a refund, a consent form will be sent to the alternate payee at the address of record at IPERS. The completed consent form must be received by IPERS within 60 days. If returned undeliverable or no response is received, the member's portion of the refund amount will be payable to the member. If returned marked "no consent," the refund will not be payable to either the member or alternate payee;

(4) Allow benefits to be paid to an alternate payee based on a period of reemployment for a retired member.

16.2(3) *Administrative provisions.*

a. IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee or any successor alternate payee(s). Payment to the alternate payee (or successor alternate payee(s)) shall be in a lump sum if the member's benefits are paid in a lump sum distribution or as monthly payments if the member's benefits are paid under a retirement option. 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 former spouse 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. Federal and state income taxes shall be deducted from the member's gross payment when a successor alternate payee(s) receives a payment. Federal and state income taxes shall be reported under the member's federal tax identification number. Unrecovered basis shall be allocated to the member.

b. The alternate payee shall not be entitled to any share of the member's death benefits except to the extent such entitlement is so provided in a QDRO or in a beneficiary designation filed subsequent to the dissolution.

c. Upon acceptable proof from a member that a preretirement divorce is final, a member may submit a new enrollment/beneficiary designation form to IPERS. IPERS will place the new designation in the member's record. However, if a domestic relations order is later received and qualified by IPERS, the provisions of the QDRO shall be deemed, except as revoked or modified in a subsequent QDRO, to operate as a beneficiary designation, and shall be given first priority by IPERS in the determination and payment of such member's death benefits. Death benefits remaining after payments are made as required by the QDRO, to the extent possible, shall then be made according to the terms of the member's most recent beneficiary designation. If a QDRO does not contain a form of benefit paragraph requiring the member to select a specific IPERS option at retirement, the member is allowed to select any option at retirement, including an option that does not provide for payment of postretirement death benefits. Once a divorce is final postretirement, a member may submit a new enrollment/beneficiary designation form to IPERS if the member has retired under Option 1, 2 or 5, unless otherwise specified in a QDRO.

d. If an alternate payee has been awarded a share of the member's benefits and dies before the member, the alternate payee's entire share shall be restored to the member unless otherwise specified in the order and in the manner required under this rule. In order for the alternate payee's entire share to be restored to the member, IPERS requires proof of death of the alternate payee in the form of a death certificate. If a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics,

IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

e. A named successor alternate payee may waive current or future rights to payments to which the successor alternate payee would have otherwise been entitled. The funds waived by a successor alternate payee shall revert to the member. The waiver of rights shall occur prior to the receipt of any payment from IPERS to the successor alternate payee and shall be in the form of a filed and signed court order. The waiver of rights by a successor alternate payee is binding and shall serve to indemnify IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by a successor alternate payee. The waiver must be received by IPERS no later than nine months after the date of death of the alternate payee or the date on which the successor alternate payee reaches age 21, whichever occurs later.

f. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a QDRO.

g. The CEO, or CEO's designee, shall have exclusive authority to determine whether a domestic relations order is a QDRO. A final determination by the CEO, or CEO's designee, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

h. A person who attempts to make IPERS a party or requires IPERS to appear as a witness 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.

i. A domestic relations order shall not become effective until IPERS qualification. If a member is receiving a retirement allowance at the time a domestic relations order is deemed qualified by the system, the order shall be effective only with respect to payments made after the appropriate appeal period has elapsed or been waived by the signature of both parties or their respective counsel. Payment to the alternate payee will be withheld from the member's next monthly payment after the date the alternate payee's application is mailed by IPERS. If the member is not receiving a retirement allowance at the time a domestic relations order is qualified by IPERS and subsequently 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. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or either party's respective legal representative, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order within that time period, IPERS shall release the hold.

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

k. IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. IPERS shall mail the alternate payee an application once an application for a distribution has been received from the member and considered a complete application by IPERS. For monthly benefit applications, the alternate payee is eligible for monthly payments as of the member's first month of entitlement.

l. If a QDRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, the order must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). Acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), must also be provided to IPERS prior to approval of the order by IPERS.

m. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover elections, if eligible, must be received before the first or current month's benefit is certified for payment or IPERS will use the applicable default tax withholding elections.

n. If an order that is determined to be a QDRO divides a member's account using a service factor formula and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary, IPERS shall limit the number of quarters used in the numerator and the denominator of the service fraction to the number of quarters actually used in the calculation of IPERS benefits, not to exceed 120 quarters for special service members

and 140 quarters for regular and hybrid members. IPERS will not accept or administer a service factor formula fraction in excess of 1.

o. Service credit that is purchased during the period when the member is married to the alternate payee shall be added to the numerator and the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Service credit that is purchased during a period when the member is not married to the alternate payee shall only be added to the denominator of the service fraction when calculating the service factor pursuant to a domestic relations order. Under no circumstances shall the number of quarters in the denominator be more than the number of quarters used to calculate the member's benefit. Service purchase after retirement shall not increase or decrease the alternate payee's payment amount that was deducted and was payable at the time of retirement.

p. The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. With the initial submission of an order for review, drafters must also submit a completed, signed, and dated Confidential Information (CI) form; in addition, every draft order submitted for review must be accompanied by a freshly signed and dated Administrative Rule Compliance for QDROs (ARC) form. Both the member and alternate payee, or their respective counsel, must sign and date the ARC form. Both forms must be wet signed; however, attorneys or pro se filers may sign with their electronic (eFile or EDMS) signatures. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO is resolved or the hold is released pursuant to the terms of paragraph 16.2(3) "i."

q. If a member has filed for and is receiving monthly pension benefits, or wishes to file an application for retirement or a refund and has a qualified domestic relations order pending on the member's account, the parties (the member and the alternate payee or their counsel of record) may execute a waiver of the 30-day appeal period following review and qualification of the member's domestic relations order, using a form approved by the system.

r. If a member with an IPERS-approved QDRO is receiving a distribution according to a qualified benefits arrangement (QBA), the alternate payee shall share in the distribution to the member unless the order specifically states otherwise.

[**ARC 8601B**, IAB 3/10/10, effective 4/14/10; **ARC 8929B**, IAB 7/14/10, effective 6/21/10; **ARC 9068B**, IAB 9/8/10, effective 10/13/10; **ARC 9397B**, IAB 2/23/11, effective 3/30/11; **ARC 0662C**, IAB 4/3/13, effective 5/8/13; **ARC 1348C**, IAB 2/19/14, effective 3/26/14; **ARC 1887C**, IAB 2/18/15, effective 3/25/15; **ARC 2402C**, IAB 2/17/16, effective 3/23/16; **ARC 4337C**, IAB 3/13/19, effective 4/17/19; **ARC 6215C**, IAB 2/23/22, effective 3/30/22; **ARC 6949C**, IAB 3/8/23, effective 4/12/23]

These rules are intended to implement Iowa Code sections 97B.4, 97B.15, 97B.25, 97B.38 and 97B.39.

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[Filed ARC 1348C (Notice ARC 1256C, IAB 12/25/13), IAB 2/19/14, effective 3/26/14]

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[Filed ARC 6949C (Notice ARC 6823C, IAB 1/11/23), IAB 3/8/23, effective 4/12/23]

CHAPTER 17
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—17.1(17A,22) Definitions. As used in this chapter:

“*Confidential record*” means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information as described in Iowa Code section 97B.17, and records, or information contained in records, that are specified in Iowa Code section 22.7, or by other provision of law.

“*Custodian*” means the CEO or designee.

“*Open record*” means a record other than a confidential record.

“*Personally identifiable information*” means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system under the jurisdiction of the agency.

“*Record*” means all or part of a “public record” as defined in Iowa Code section 22.1 or 97B.17 which is owned by or in the physical possession of the agency. IPERS also defines a record as information stored or preserved regardless of physical form. Record content, not record form, determines whether or not information constitutes a record. Any information documenting official final business, whether recorded on paper, reproduced on microfilm, entered in an electronic database, documented photographically, recorded in video or audio media, or documented using any other medium, constitutes a record. A record that is not confidential or otherwise exempt by federal or state law is termed an open record.

“*Record system*” means any group of records under the jurisdiction of the agency from which a confidential record or information may be retrieved.

[ARC 1887C, IAB 2/18/15, effective 3/25/15]

495—17.2(17A,22) Statement of policy, purpose and scope. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.3(17A,22) Requests for access to records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.4(17A,22) Access to confidential records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.6(17A,22) Procedure by which a person who is the subject of a record may have additions, dissents, or objections entered into certain records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.7(17A,22) Consent to disclosure by the subject of a confidential record. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.8(17A,22) Notice to suppliers of information. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.9(17A,22) Disclosures without the consent of the subject. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.10(17A,22) Routine use. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.11(17A,22) Consensual disclosure of confidential records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.12(17A,22) Release to subject. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.13(17A,22) Availability of records. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

495—17.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by personal identifier in record systems defined in rule 495—17.1(97B). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. Record systems under the jurisdiction of the agency that are retrievable through the use of personal identifiers are described as follows:

17.14(1) *IPERS personnel files and records.* Personnel files of IPERS employees are maintained and kept under the jurisdiction of the agency and contain personal, private, and otherwise confidential records under Iowa Code section 22.7(11). It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the employee's family. These records contain names, social security numbers and other identifying numbers. Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(2) *Iowa public employees' retirement system.* The retirement system possesses records that concern individual public employees who are covered by IPERS and their families. Records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code sections 22.7 and 97B.17. These records contain names, addresses, social security numbers, and other identifying numbers. Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(3) *Vendor contracts.* These are records pertaining to facilities management, training, investment management, and other services. These records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code section 22.7. These records contain names, addresses, social security numbers, and other identifying numbers. Data processing systems permit the comparison of personally identifiable information in one record system with that in another system. Vendors that have access to personally identifiable information shall sign a data-sharing agreement as requested by IPERS.

[ARC 5489C, IAB 3/10/21, effective 4/14/21]

495—17.15(17A,22) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the agency other than those record systems retrieved by personally identifiable information as defined in rule 495—17.1(97B). These records are routinely available to the public subject to costs. However, these records may contain confidential information. In addition, the records listed in subrules 17.15(1) to 17.15(4), 17.15(6), and 17.15(9) may contain information about individuals. All records may be stored on paper, microfilm, tape or in automated data processing systems unless otherwise noted.

17.15(1) Rule-making records. Rule-making records may identify individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection. This information is not retrieved by individual identifier.

17.15(2) Board and committee records. Agendas, minutes, and materials presented to the board and committee within the agency are available from the agency except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4) or which are otherwise confidential

by law. These records may identify individuals who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

17.15(3) Publications. News releases, annual reports, final project reports, newsletters, and brochures describing various programs are available from the agency. These publications may contain information about individuals, including staff or members of the board or committee. This information is not retrieved by individual identifier.

17.15(4) Statistical reports. Periodic reports of activity for various department programs are available from the department. This information is not retrieved by individual identifier.

17.15(5) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to rule 495—17.5(97B) or subrule 17.13(2). These records, collected under the authority of Iowa Code chapters 97B and 97C, may contain confidential information about individuals.

17.15(6) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright laws. This information is not retrieved by individual identifier.

17.15(7) Policy manuals. The agency's manuals containing the policies and procedures for programs administered by the agency are available at IPERS' headquarters. This information is not retrieved by individual identifier.

17.15(8) Administrative records. These are records related to the budgets of the agency, the requisition of equipment and supplies, the payment of claims, and other accounting functions as well as records kept by the investments section, including information on investment policies and portfolios. Some investment information is partially confidential under Iowa Code sections 22.7 and 97B.17.

17.15(9) All other records not exempted from disclosure by law.

495—17.16(17A,22) Comparison of data processing systems. To the extent required by law, all data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

495—17.17(17A,22) Applicability. Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026.

These rules are intended to implement Iowa Code chapter 97B.

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[Content rescinded by 2026 Iowa Acts, Senate File 2463, section 4—editorially removed in IAC Supplement 7/8/26, effective 7/1/26]

CHAPTER 18
Reserved

CHAPTER 19
DECLARATORY ORDERS

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 20
RECOGNITION OF AGENTS
[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—20.1(97B) Recognition of agents.

20.1(1) *Recognition of agents in general.* When a member or beneficiary desires to be represented by an agent before the system, the member or beneficiary shall designate in writing, using a power of attorney form or other acceptable legal form, the name of a representative and the nature of the business the representative is authorized to transact. Other acceptable legal form can be a guardianship, conservatorship, other similar court order that appoints an agent to act upon behalf of a member or beneficiary, or social security representative payee documents for the individual so designated. An agent can be an institution or facility acting upon the member's or beneficiary's behalf. Such designation on the part of the member or beneficiary shall constitute for IPERS sufficient proof of the acceptability of the individual to serve as the member's or beneficiary's agent.

20.1(2) *Payment to members or beneficiaries with a recognized agent.* When it appears that the interest of a member or beneficiary would be served, IPERS may recognize an agent to represent the member or beneficiary in the transaction of the affairs with IPERS. Such agents have all the rights and obligations of the member or beneficiary unless the document creating the agency relationship limits this authority as it pertains to the system. Notwithstanding the foregoing, no agent shall have the right to name the agent as the member's or beneficiary's beneficiary unless approved to do so by a court having jurisdiction of the matter, or unless expressly authorized to do so in a power of attorney executed by the member or beneficiary.

20.1(3) *Revocation or suspension of power of attorney.* Any person serving as an agent by power of attorney under this rule can have the agency relationship rescinded by the member or beneficiary by notifying IPERS in writing. A power of attorney shall be suspended and given no effect when the system receives written proof of the appointment of a guardian, conservator, or court order that appoints an agent to act upon behalf of the member or beneficiary. The power of attorney shall be reinstated when the system receives written proof that a guardianship, conservatorship, or court order appointing an agent no longer exists, has expired, or is invalid.

20.1(4) *Revocation of other representative agents.* Any person, institution, or facility serving as an agent under a guardianship or conservatorship may not have its agency relationship revoked unless by court order.

20.1(5) *Social security representative payees.* The system shall accept the federal social security administration's appointment of a person, facility, or institution to act upon a member's or beneficiary's behalf only with regard to the deposit of system benefits. The appointment of a person, facility, or institution by the federal social security administration shall be suspended and given no effect when the system receives written proof of the appointment of a guardian, conservator, or court order that appoints an agent to act upon behalf of the member or beneficiary. A power of attorney or court order will take precedence over the federal social security administration's appointment of a person, facility, or institution to act upon a member's or beneficiary's behalf.

20.1(6) *Agent standards.* A person, facility, or institution serving in the capacity of an agent shall act in the best interests of the member or beneficiary. Payments made to the agent on behalf of the member or beneficiary will be used for the direct benefit of the member or beneficiary. The failure to serve in the best interests of the member or beneficiary will cause discontinuance of the agency relationship and may serve as the basis for legal action by IPERS, the member, or the beneficiary.

[ARC 2981C, IAB 3/15/17, effective 4/19/17; ARC 5027C, IAB 4/8/20, effective 5/13/20]

495—20.2(97B) Agreements by agents. Rescinded ARC 5027C, IAB 4/8/20, effective 5/13/20.

These rules are intended to implement Iowa Code sections 97B.34 and 97B.37.

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CHAPTER 21

MERGERS

[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—21.1(97B) Procedures for merger of qualified pension plans with IPERS.

21.1(1) Effective January 1, 2003, IPERS will begin accepting qualified pension plans for merger into the IPERS pension plan. This merger process shall provide for the transfer of all active and inactive members, retired members, and beneficiaries of retired members of the merging plan into IPERS, except as otherwise agreed to by IPERS and the merging plan.

21.1(2) The merging plan shall transfer assets to IPERS in an amount equal to the actuarial accrued liability created for IPERS as the result of the transfer of pension obligations owed to active, inactive and retired members of the merging plan. Said actuarial accrued liability shall be determined using the merging plan's membership data, the IPERS benefit structure, and the current IPERS actuarial valuation assumptions as of the date of the transfer.

21.1(3) All years of service under the merging plan shall be recognized by IPERS for purposes of determining eligibility and vested status and calculating IPERS benefits.

21.1(4) All wage records for current active members shall be summarized on the quarterly basis used by IPERS to determine a member's IPERS benefits. IPERS will not independently verify wage records but will monitor those records to ensure that IRC Sections 401(a)(17)(A) and (B) limits are not exceeded.

21.1(5) The merging plan's actuary may determine that the accrued benefit of an active or inactive member of the merging plan exceeds the member's accrued IPERS benefits based on the merging plan's membership data and the IPERS benefit structure. The compensation of such individuals for any difference between the monthly benefit they accrued in the merging plan and the benefit they will have under IPERS shall be at the merging plan's sole discretion, and IPERS shall have no liability.

21.1(6) The same methods of conversion and cash out will be used for terminated vested members with a current plan account in the merging plan and for members, if any, who previously elected to freeze their accounts in the former plan to begin participation in IPERS.

21.1(7) The merging plan's retired members shall receive annuity payments from IPERS in the same forms and amounts as provided in the merging plan, provided those forms of payment are available under IPERS. If any retired member from the merging plan is also receiving a benefit from IPERS and the forms of benefits under the two plans differ, the retired member must agree to have the benefit payable from the merging plan converted and paid in the same form as the benefit under IPERS. Dividends for retired members transferred to IPERS shall be determined based on the first month of entitlement under the merging plan.

21.1(8) The monthly benefit payable to transferred members (excluding retired members) by IPERS may be greater or less than the monthly benefit they would have received under the merging plan. IPERS shall not be responsible for any difference in the two benefit amounts. It shall be the sole responsibility of the merging plan to ensure the protection of the accrued benefits of the merging plan's members and beneficiaries.

21.1(9) IPERS may agree to accept in-kind transfers of assets in satisfaction of the liabilities created by the merger, but may, in IPERS' sole discretion, decline all in-kind asset transfers and demand cash to fund the merger.

[ARC 9397B, IAB 2/23/11, effective 3/30/11]

495—21.2(97B) Mandatory merger criteria.

21.2(1) General. Mergers shall meet the following criteria:

a. There shall be no actuarial gain or loss to IPERS (defined as a change in the unfunded accrued actuarial liability) as a result of a merger with another pension plan.

b. The merging plan shall defend and hold IPERS harmless from any claims by transferred members with respect to employee contribution accounts, cut-back claims, tax issues, and any other cause of action arising hereunder that does not result from IPERS' negligence or misconduct. This indemnification shall

also extend to any contractual claims by the merging plan's vendors, pending or threatened lawsuits or regulatory actions against the merging plan, and appeals by members, retired members and beneficiaries of the merging plan.

c. Prior to the merger date, the merging plan authority and IPERS shall formally agree on all material terms and conditions of the merger in writing.

d. The merging plan authority shall adopt by resolution a proposal to merge the pension plan with and into the IPERS pension plan, with IPERS as the surviving plan, which shall incorporate by reference the details of the merger expressed in the merger agreement between the merging plan and IPERS. The merging plan authority shall secure all other approvals necessary to the merger, and shall certify to IPERS that all necessary authorizations have been received.

e. All assets required to fund the transfer of liabilities created under the merger shall be transferred to IPERS within 120 days after the proposed effective date, plus an additional amount representing a 7.5 percent interest rate (or the current rate assumed by IPERS' actuary in valuing assets and liabilities) commencing on the proposed effective date.

f. After the merger, the merging plan authority, as a covered employer, shall determine employee classifications and deduct and forward member and employer contributions in the same amount as required for all IPERS covered employment.

g. The merging plan authority shall transfer to IPERS in a mutually agreed upon method all employment records for active, inactive, and retired members and beneficiaries, including all tax reporting records. In addition to employment and tax reporting records, transferred electronic files shall include the same enrollment information as required for IPERS covered employers' new employees. Similar demographic information shall be provided to IPERS for spouses and beneficiaries.

h. The merging plan shall, prior to merger, in its sole discretion, make such amendments to its plan documents that it deems to be necessary or appropriate to accomplish the merger, provided that no such amendments shall vary the terms of the agreement to merge without the express written consent of IPERS.

i. IPERS shall, prior to merger, in its sole discretion, make such amendments to its plan documents that it deems to be necessary or appropriate to accomplish the merger, provided that no such amendments shall vary the terms of the agreement to merge without the express written consent of the merging plan.

j. The transferred records of the merging plan shall be treated as confidential records by IPERS as described in Iowa Code section 97B.17.

k. The merging plan authority and its legal and actuarial advisors shall determine the excess accruals, if any, owed to any member of the merging plan transferred to IPERS; shall provide such members with the appropriate election forms and related information; and shall take all steps necessary to complete the payment of compensation to such individuals in satisfaction of the obligation to protect accrued benefits under the merging plan as described above.

l. Excluding matters relating to the distribution of excess accruals, if any, the merging plan authority, its legal counsel, and IPERS and its legal counsel shall jointly develop all required communications regarding the plan merger. IPERS shall have sole responsibility for providing benefits estimates to the merging plan members, in anticipation of the merger. Following the effective date of the merger, all member services shall be handled by IPERS.

m. Following the merger, transferred active, inactive, and retired members and beneficiaries shall be entitled to benefits, including monthly allowances, refunds, actuarial equivalent (AE), death benefits and dividends as other IPERS members having the same demographic, wage and service records.

n. The members of the merging plan who currently have binding assignments against their benefits shall continue to have those assignments administered by IPERS as described in 495—Chapter 16 or as otherwise required by law.

o. The members of the merging plan currently receiving disability retirement benefits must agree to have their disability retirement benefits administered by IPERS as described under 495—Chapter 13, or those members shall not be transferred.

p. The merging plan and IPERS shall jointly agree whether the merger will be submitted to the IRS for approval.

21.2(2) Reserved.

These rules are intended to implement Iowa Code section 97B.42C.

[Filed 11/5/04, Notice 9/15/04—published 11/24/04, effective 12/29/04]

[Filed ARC 9397B (Notice ARC 9310B, IAB 12/29/10), IAB 2/23/11, effective 3/30/11]

CHAPTER 22
FEDERAL SOCIAL SECURITY
[Prior to 1/7/04, see 581—Ch 22]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—22.1(97C) General. In order to extend to the employees of the state of Iowa and its political subdivisions, agencies and instrumentalities the basic protections accorded by the old-age and survivors system embodied in Title II of the federal Social Security Act, on July 1, 1953, the state of Iowa signed a Section 218 Agreement with the Social Security Administration. That Section 218 Agreement, as implemented in Iowa Code chapter 97C, provides Social Security mandates and federal Social Security coverage for most Iowa public employees.

495—22.2(97C) Pre-January 1, 1987, duties. Prior to January 1, 1987, the agency had substantial responsibilities for administering withholding, depositing and reporting requirements for Social Security and Medicare taxes, including audit, tax collection, and dispute resolution responsibilities. Effective January 1, 1987, those responsibilities were mostly transferred to the federal Internal Revenue Service. Accordingly, the agency will assist employers with respect to wage reports, tax collections and adjustments only for the period prior to January 1, 1987.

495—22.3(97C) Post-January 1, 1987, duties.

22.3(1) The agency's responsibilities under the Section 218 Agreement are to administer and maintain the Section 218 Agreement by:

- a.* Maintaining physical custody of the master Section 218 Agreement, modifications, dissolutions, consolidations and intrastate and interstate coverage agreements.
- b.* Preparing Section 218 Agreement modifications to include additional covered employers, following the employer's submission of an IPERS Status Report form indicating the employer should be covered under the Iowa Public Employees' Retirement System.
- c.* Preparing Section 218 Agreement modifications to include additional coverage groups of employees when appropriate.
- d.* Preparing Section 218 Agreement modifications to remove covered employers, coverage groups, and to correct errors in prior modifications.
- e.* Providing advice on Section 218 Agreement optional exclusions applicable to Iowa employers and employees and advice on Iowa Code chapter 97C.
- f.* Providing the Social Security Administration with notice and supporting evidence of the legal dissolution or consolidation of covered entities.
- g.* Assisting with referenda for Social Security and Medicare coverage as set forth in Iowa Code chapter 97C.
- h.* Assisting in the resolution of coverage and taxation questions associated with the Section 218 Agreement and modifications.
- i.* Negotiating with the Social Security Administration to resolve contribution payment and wage reporting issues concerning wages paid before January 1, 1987.
- j.* Advising covered employers on Social Security and Medicare tax and withholding issues.
- k.* Serving as a bridge between covered employers and the Social Security Administration and the IRS by obtaining clarifications of laws, regulations and other appropriate information from other State Social Security administrators, the Social Security Administration, and the Internal Revenue Service.

22.3(2) IPERS shall have no responsibility for Social Security and Medicare matters involving non-Section 218 Agreement employers and employees.

495—22.4(97C) Reports. To assist IPERS in fulfilling its responsibilities hereunder, all covered employers shall provide such reports as IPERS may reasonably require. This reporting requirement is in addition to and does not supersede any federal reporting or other obligations imposed on covered employers in order

for them to comply with the current and future withholding, reporting and submission of Social Security and Medicare taxes.

495—22.5(97C) Conflict of laws. In the event of any conflict between Iowa Code chapter 97C, these rules, and the provisions of the Social Security Act, the provisions of the Social Security Act, as amended, shall be controlling.

These rules are intended to implement Iowa Code chapter 97C.

[Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]

[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 9/24/82, Notice 8/18/82—published 10/13/82, effective 11/17/82]

[Filed 11/18/83, Notice 10/12/83—published 12/7/83, effective 1/11/84]

[Filed 4/17/87, Notice 3/11/87—published 5/6/87, effective 6/10/87]

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

[Filed 4/7/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

CHAPTERS 23 to 25
Reserved

CHAPTER 26
APPEALS AND CONTESTED CASES—PROCEEDINGS

[Prior to 1/7/04, see 581—21.9]

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTERS 27 to 29
Reserved

CHAPTER 30
PETITIONS FOR RULE MAKING

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 31
AGENCY PROCEDURE FOR RULE MAKING

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTER 32
QUALIFIED BENEFITS ARRANGEMENT
[Prior to 1/7/04, see 581—21.32]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—32.1(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 the retirement system created under Iowa Code chapter 97B, including those whose benefits are limited by Section 415 of the Internal Revenue Code.

32.1(1) The agency shall administer the QBA. The agency 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, the agency has full authority to make modifications to the benefits payable under the QBA as may be necessary to maintain the QBA's qualification under Section 415(m) of the Internal Revenue Code.

32.1(2) All members, retired members, and beneficiaries of the agency are eligible to participate in the QBA if their benefits would exceed the limitation 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.

32.1(3) On and after the effective date of the QBA, the agency 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 the agency prior to any reduction or limitation because of Section 415 of the Internal Revenue Code and the actual monthly benefit payable from the agency as limited by Section 415. The agency 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 the agency except for the IRC Section 415 limitations.

32.1(4) The agency shall determine the amount of benefits that cannot be provided under the agency because of the limitations of Section 415 of the Internal Revenue Code, and the amount of contributions that must be made to the QBA as a separate fund within the retirement fund created in Iowa Code section 97B.7. If applicable, fees for the actuary's service shall be paid by the applicable employers.

32.1(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 the agency 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 retirement fund established under Iowa Code section 97B.7 and administered by the agency. This fund is intended to be exempt from federal income tax under Sections 115 and 415(m) of the Internal Revenue Code. The agency 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 retirement fund created at Iowa Code section 97B.7 to pay the maximum benefits permitted. Employer contributions made to a separate fund to provide supplemental pension benefits shall not be commingled with the contributions paid into and accumulated in the retirement fund created at Iowa Code section 97B.7. 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 the agency, for the payment of administrative expenses of the QBA for the plan year.

32.1(6) A member cannot elect to defer the receipt of all or any part of the payments due under this QBA.

32.1(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.

32.1(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.

32.1(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.

32.1(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.

[Filed 12/17/03, Notice 11/12/03—published 1/7/04, effective 2/11/04]

CHAPTER 33
UNIFORM RULES FOR WAIVERS

Rescinded by 2026 Iowa Acts, Senate File 2463, section 4, effective July 1, 2026. See Uniform Rules on Agency Procedure at 7—Chapters 2500 through 2506 and any corresponding rules adopted by this agency.

CHAPTERS 34 to 2502
Reserved

CHAPTER 2503
DECLARATORY ORDERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/30/31

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2503.8(17A) Refusal to issue order.

2503.8(4) The agency will not issue declaratory orders on the following:

- a.* The present value of IPERS retirement monthly benefits.
- b.* Actuarial assumptions used or proposed to be used by the agency.
- c.* The impact of proposed legislation.
- d.* Issues that require the disclosure of confidential information.
- e.* Any matter under appeal or in litigation.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

[Filed Emergency ARC 0442D, IAB 7/8/26, effective 6/30/26]

CHAPTER 2504
RULE WAIVERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/30/31

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2504.6(17A) Rules from which the agency shall not grant waivers. The agency shall not grant waivers from the following rules, except as otherwise indicated in the following list.

1. Rules that implement state or federal law, if the waiver could affect the taxability of pension benefits under the Internal Revenue Code and regulations thereunder or the Iowa Code and rules adopted thereunder.

2. Rules that set forth the formulas used to calculate IPERS' monthly retirement benefits, actuarial equivalents, dividends, amounts to be credited to supplemental accounts of active members, refunds, death benefits, and service purchase costs.

3. Rules that implement contribution rates and actuarial assumptions set by IPERS.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

[Filed Emergency ARC 0442D, IAB 7/8/26, effective 6/30/26]

CHAPTER 2505
Reserved

CHAPTER 2506 CONTESTED CASES

Chapter rescission date pursuant to Iowa Code section 17A.7: 6/30/31

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2506.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the agency, including vendor appeals. However, this chapter does not apply to the extent that a claim being addressed by the agency is governed by Iowa Code chapter 97B or if the competitive solicitation will be paid for with investment management expenses charged to the investment income of the retirement fund as set forth in Iowa Code section 97B.7(3) “d.”

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2506.2(17A) Definitions.

“*Presiding officer*” means the administrative law judge designated pursuant to Iowa Code section 97B.20B.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2506.6(17A) Presiding officer. This rule is not adopted.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2506.14(17A) Subpoenas.

2506.14(1) This subrule is not adopted.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2506.26(17A) Final decisions.

2506.26(1) This subrule is not adopted.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

495—2506.27(17A) Appeals and review.

2506.27(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the employment appeal board as provided in Iowa Code section 97B.27.

2506.27(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the employment appeal board as provided in Iowa Code section 97B.27. The notice of appeal is to be signed by the appealing party or a representative of that party and contain a certificate of service. The notice will specify:

2506.27(4) This subrule is not adopted.

2506.27(5) *Scheduling.* The employment appeal board will issue a schedule for consideration of the appeal.

2506.27(6) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs will include any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument will be filed with the briefs. The employment appeal board may resolve the appeal on the briefs or provide an opportunity for oral argument. The employment appeal board may shorten or extend the briefing period as appropriate.

[ARC 0442D, IAB 7/8/26, effective 6/30/26]

[Filed Emergency ARC 0442D, IAB 7/8/26, effective 6/30/26]