

# BOARD RULES

*Effective as of February 17, 2023*







# Board Rules

*Effective February 17, 2023*

# MOSERS Board Rules

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# MOSERS Board Rules

## **CHAPTER 1** Procedures

# MOSERS Board Rules

## 1-1 Rulemaking

*PURPOSE: This rule sets forth the procedures for establishing administrative rules as provided in Section 104.1063, RSMo.*

1. Pursuant to Section 104.1063, RSMo, the board of trustees of the Missouri State Employees' Retirement System "is authorized to promulgate rules to properly administer the system and govern its own proceedings."
2. Rules may be promulgated by the board of trustees, or may be amended or repealed, in whole or in part, at any meeting of the board of trustees. Proposed rulemaking (which includes making new rules and any amendment or repeal of an existing rule) shall be posted on the system's public website for a comment period of 30 days following adoption by the board of trustees. The adopted rule shall become effective at the end of the comment period. If comments are received during the comment period, staff shall report the comments to the board of trustees at the next regularly scheduled board meeting. The board of trustees may modify the adopted rule in response to the comments. Any modifications shall be effective immediately unless the board of trustees elects to provide a comment period.
3. All rules promulgated by the system that are currently in effect shall be made available on the system's public website.
4. The system shall review all of its rules at least every five years.
5. The plans administered by the system must satisfy the qualification requirements under Section 401 of the Internal Revenue Code, as applicable to each plan. In order to meet those requirements, the plans are subject to relevant state law provisions for the respective plans and Chapter 8 of these Board Rules.
6. Sections 476.580 and 287.845 provide that MOSERS shall administer the retirement benefits provided under Chapter 476 and Chapter 287. Unless the context clearly indicates otherwise, rules promulgated by the Board shall apply to each plan administered by the Board.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020; Feb. 17, 2023.*



# MOSERS Board Rules

## 1-2 Appeals to the Board of Trustees

*PURPOSE: This rule establishes the formal procedures for appeals to the board of trustees.*

1. Members, beneficiaries, survivors, retirees, judges, administrative law judges, legal advisors, and departments may request review by the board of trustees of an administrative decision(s) by the executive director of the system, or his/her designee, concerning eligibility for and/or the amount of benefits, service, contributions, refunds, and membership.
2. Requests
  - a. The request for review must be stated in writing and addressed to the executive director or the board of trustees. The request must state what decision the board of trustees is being asked to review and what action the board of trustees is being asked to take.
  - b. The request must be made within 60 days after the administrative decision has been mailed or otherwise communicated to the party making the request for review.
3. Reviews
  - a. The review will be held at the next regularly scheduled board meeting that is at least 30 days after the date on which the request for review is received unless another date is mutually agreed to by the parties. The party requesting review (the appellant) will be notified in writing of the date on which the board of trustees will conduct the review.
  - b. Reviews will be held on an informal basis. No formal rules of evidence will be applied.
  - c. Attendance by the appellant is not required.
  - d. Reviews, including any presentations and review of any information provided in connection with the review, will be conducted in closed session and all records related to the request for review will be maintained as closed records to preserve confidentiality of member information.
4. Documentation
  - a. The system's staff will prepare background material for the board of trustees, which will include documentation necessary for the board of trustees to review the decision, and at a minimum will include copies of correspondence, applicable statutes and regulations, and a summary of the issues and decision of the executive director of the system or his/her designee. The background material will be supplied to the appellant at the same time it is provided to the board of trustees. Any requirements of law prohibiting reproduction or distribution of material will be observed.

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- b. The appellant may submit additional information to the system to be provided to the board of trustees for consideration. The appellant must provide any documentation to be considered at least seven days before the board meeting.
5. Presentations
  - a. The system's staff will present the background material prepared by staff to the board of trustees.
  - b. The appellant may present documentation and testimony for the board of trustees to consider. The board of trustees shall determine in its sole discretion the amount of time the appellant will have to make a presentation.
  - c. The appellant may have another individual make the presentation, or assist in making the presentation, of information to the board of trustees. The appellant also may have additional witnesses at the board meeting, who can provide information to the board of trustees.
6. After consideration of the background material and the appellant's information, the board of trustees will vote to confirm, reverse, or amend the administrative decision. Deliberations and voting will occur after the appellant and any representatives or witnesses have left the meeting and while the board of trustees is still in closed session. A vote will occur at the same meeting as the review unless the board of trustees requests additional information or requires additional time to review information presented at the meeting. In those instances, the board of trustees will make its decision at the next regularly scheduled board meeting.
7. The decision of the board of trustees will be communicated to the appellant in writing by the executive director of the system. The notice of the decision will contain a statement of the decision and a brief explanation of the reasons for the decision.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

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## 1-3 Confidentiality of Records

*PURPOSE: This rule establishes that certain member records shall be kept confidential by the system.*

1. Effective September 1, 2009, staff shall post on the system's website the name, length of service, position, and monthly benefit amount for all benefit recipients receiving retirement, survivor, or period certain annuity benefits as a result of service as a statewide elected official, member of the general assembly, judge, and any administrative law judge or a legal advisor whose service is covered by the system pursuant to Chapter 287, RSMo (collectively referred to as "public officials"). In the event a current or former public official is also receiving retirement benefits as the result of service as a general state employee, the same information described above shall also be posted regarding that benefit.
2. Upon request, the system will provide the requestor with the following information with regard to any present or future benefit recipient who is receiving or may be eligible to receive a benefit in the future under any benefit program administered by the system pursuant to Chapters 104, 287, or 476, RSMo: the benefit recipient's name, eligibility to receive a benefit, dates when a benefit was or will be payable, and current or estimated future benefit amount. The system shall keep all other individually identifiable records of a benefit recipient confidential unless:
  - a. The benefit recipient or the benefit recipient's legal representative consents to the release of the information.
  - b. The system is required by law, subpoena, or other legal process to release the information.
  - c. A MOSERS covered department requests the information in connection with personnel management or the administration of a benefit program and the director or other authorized personnel of the department agrees in writing to use the information only for the requested purpose and to otherwise keep the information confidential.
3. Staff may mail non-commercial information to members on behalf of a MOSERS covered department if the department pays for the cost of the mailing.
4. The system will send the benefit recipient a copy of the information provided in response to a request unless the request seeks general information about a large group of benefit recipients.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Oct. 27, 2002; Sept. 20, 2007; Aug. 5, 2009; Dec. 23, 2013; Dec. 21, 2020.*

# MOSERS Board Rules

## 1-5 Board Election Procedures

*PURPOSE: This rule establishes the formal procedures for nomination and election of the elective positions of the board of trustees as authorized in Sections 104.450 and 104.460, RSMo.*

### A. General Procedures

1. The Board of Trustees (“Board”) will select a third-party election administrator, in accordance with the system’s procurement procedures (the “Election Administrator”).
2. Any or all election procedures delegated by the Board to the Executive Director may be delegated to an individual or firm qualified to carry out such procedures, including MOSERS staff members.
3. The Election Administrator shall administer any election balloting procedures including but not limited to, creating election ballots, sending election ballots with instructions, counting votes, and certifying the results.
4. Staff is required to establish procedures to ensure candidate information is true and accurate prior to submitting the candidate information to the Election Administrator. These procedures will include, but may not be limited to, validation of the signatures on the candidate petition forms.
5. It will be automatic grounds for disqualification if it is determined that a candidate knowingly submitted false information in the election process.
6. Candidates may not use state resources (interagency mail, equipment, personnel, and supplies) for campaign purposes.
7. Candidates may not use the system’s resources for campaign purposes. This includes receiving contact information of the system’s members (i.e. member names, telephone numbers, addresses, and email addresses).

### B. Nominating Petitions

1. Candidates will be nominated by means of nominating petitions. There will be separate nominating petitions for each type of election: one for the active employee member election and one for the retiree member election.
2. Each petition may have only one (1) candidate listed and an individual can only run for one position on the Board.
3. Staff shall set the time period when nomination petitions shall be filed and the manner in which petitions must be filed.
4. If only one (1) valid nominating petition is filed for any vacancy, the person nominated will be declared elected by the Board at the next regular board meeting.

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5. If at least one (1) valid nominating petition is not filed for each vacancy to be filled, this election process shall be repeated for that vacancy until a valid nominating petition is received.

## **C. Active Employee Member – Candidate Eligibility**

1. An eligible candidate for an active employee member position shall be a member of the Missouri State Employees' Retirement System who is an employee on June 1 of the year of the election. The following individuals will not be considered eligible candidates for the active employee member board election:
  - a. retired members of the system;
  - b. term-vested members of the system;
  - c. active, term-vested, or retired members of the judicial and administrative law judges plan;
  - d. members on long-term disability; and
  - e. survivors of deceased members of the system including the judicial and administrative law judges plan.
2. Valid nominating petitions for active employee members must have in total at least one hundred (100) verified signatures of active employee members (other than the board candidate) eligible to sign the petition (on paper or electronic). Submitted signatures on the petition must include the members' name (printed clearly), signature, state agency where employed, and the last four digits of the member's social security number. The following individuals will not be considered eligible to sign active employee member petitions:
  - a. retired members of the system,
  - b. active, term-vested, or retired members of the judicial and administrative law judges plan;
  - c. members on long-term disability; and
  - d. survivors of deceased members of the system including survivors of members of the judicial and administrative law judges plan.
3. Each candidate must submit the following items:
  - a. A summary of information (i.e. candidate biography) regarding his or her background (which may include years of service, department experience, reasons for wanting to serve, etc.) and qualifications, not to exceed three hundred (300) words. Formatting of this information for public disclosure will be under the direction of staff members.
  - b. Copies of the campaign finance disclosure forms sent to the Missouri Ethics Commission which indicate the amounts and sources of all contributions received and amounts and receipts of all expenditures. The candidates are required to file such campaign finance disclosure forms pursuant to Section 104.460 RSMo.

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4. If a newly elected board member representing the active employee members is no longer an employee after the election and before the start of their term, the candidate receiving the next highest number of votes will be declared elected.
5. A board member representing active employee members who is no longer an employee while serving on the Board will be considered to have resigned from the Board. The Board will appoint an active employee member to serve the balance of the Board member's term in accordance with Section 104.450, RSMo.

## **D. Retiree Member – Candidate Eligibility**

1. An eligible candidate for the retiree member position shall be a member of the Missouri State Employees' Retirement System who is receiving retirement benefits as of June 1 of the election year. The following individuals will not be considered eligible candidates for the retiree member board election:
  - a. active employee members of the system;
  - b. term-vested members of the system;
  - c. active, term-vested, or retired members of the judicial and administrative law judges plan;
  - d. members on long-term disability; and
  - e. survivors of deceased members of the system including the judicial and administrative law judges plan.
2. Valid nominating petitions for the retiree member election must have in total at least twenty-five (25) verified signatures of retired members (other than the board candidate) eligible to sign the petition (on paper or electronic). Each line item on the retiree member petition signature sheet must indicate the members' name (printed clearly), signature, state agency where the retiree member was last employed, and the last four digits of the member's social security number. The following individuals will not be considered eligible to sign retiree member petitions:
  - a. active employee members of the system;
  - b. term-vested members of the system;
  - c. active, term-vested, or retired members of the judicial and administrative law judges plan;
  - d. members on long-term disability; and
  - e. survivors of deceased members of the system including survivors of members of the judicial and administrative law judges plan.
3. Each candidate must submit the following written statements:
  - a. A summary of information (i.e. candidate biography) regarding his or her background (which may include years of service, department experience, reasons for wanting to serve, etc.) and qualifications, not to exceed three

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hundred (300) words. Formatting of this information for posting on the system's website will be under the direction of staff members.

- b. Copies of the campaign finance disclosure forms sent to the Missouri Ethics Commission which indicate the amounts and sources of all contributions received and amounts and receipts of all expenditures. The candidates are required to file such campaign finance disclosure forms pursuant to Section 104.460 RSMo.
4. If a newly elected board member representing the retired members becomes employed in a MOSERS' benefit eligible position or dies after the election and before the start of their term, the candidate receiving the next highest number of votes will be declared elected.
5. A retiree board member who becomes employed in a MOSERS' benefit eligible position or dies while serving on the Board will be considered to have resigned from the Board. The Board will appoint a retiree member to serve the balance of the retiree member's term in accordance with Section 104.450 RSMo.

## **E. Election Ballots, Voting, and Results**

### ***Election Ballots***

1. Staff members will provide the Election Administrator with a list of approved candidates, the years of state service, and current employer or agency retired from, whichever is applicable, and retirement date for the election ballot.
2. Names of candidates will be listed on the election ballot or in a supplemental publication in random order at the discretion of the Election Administrator. In no event will names of candidates be placed in alphabetical order on the election ballot or in a supplemental publication other than by happenstance. Each election ballot will include instructions for voting.
3. Election ballots for an active employee member election will allow selection of one (1) or two (2) active employee member candidates to become board members depending on the number of positions up for election, which is determined by state law. If the election is for two board positions, the two candidates receiving the highest number of votes will be declared elected. If the election is for one (1) board position, the candidate receiving the highest number of votes will be declared elected. If a tie shall occur between two (2) or more candidates receiving an identical number of votes, the winner shall be determined by a toss of a coin.
4. Election ballots for retiree members will allow selection for one (1) retiree member candidate to become a board member. The one (1) candidate receiving the highest number of votes will be declared elected. If a tie shall occur between two (2) or more candidates receiving an identical number of votes, the winner shall be determined by a toss of a coin.

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## *Voting*

5. Election ballots may be cast either online or via telephone. MOSERS will provide the necessary contact information of eligible voters to the Election Administrator.
6. The voting period will be at least 30 calendar days in length. The beginning date of the voting period will be set by staff but shall not be set prior to August 1st nor later than November 15th of the year of election. Balloting will cease at 5:00 pm Central Time on the last day of the board election.
6. An eligible voter for the active employee member position shall be a member of the Missouri State Employees' Retirement System who is not receiving retirement benefits as of the last day of the month proceeding the month in which the election is to be held. Active employee member election ballots will not be sent to the following individuals:
  - a. members of the judicial plan;
  - b. members of the administrative law judges' plan;
  - c. retired members; and
  - d. survivors.
7. An eligible voter for the retiree member position shall be a member of the Missouri State Employees' Retirement System who is receiving retirement benefits as of the last day of the month proceeding the month in which the election is to be held. Retiree member election ballots will not be sent to the following individuals:
  - a. term-vested members;
  - b. long-term disability recipients;
  - c. members of the judicial plan;
  - d. members of the administrative law judges' plan;
  - e. active employee members; and
  - f. survivors.

## *Results*

8. Results of the election will be certified to the Executive Director by the Election Administrator by the next business day after count completion. The election results will be distributed to all members of the Board and candidates by staff no later than 5 business days of the certification to the Executive Director.
9. Election ballots will be maintained by the Election Administrator for a period of one year to allow for recounts. After one year from the date of the certification of the results, all election ballots will be destroyed.
10. Newly elected Board members will begin their terms in January of the year following the election year.



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## **F. Invalid Election Ballots**

1. The following are declared to be invalid election ballots and shall not be counted in the election:
  - a. Election ballots submitted by a person who is not an eligible voter as defined above;
  - b. If the same candidate is voted for more than once by the same voter;
  - c. Election ballots not received within the time period prescribed in this Rule;
  - d. Internet or telephone election ballots not cast in the manner described by the Election Administrator; and
  - e. Election ballots received by the system by any method (mail, facsimile, email, hand-delivered, etc.).
2. Only election ballots received by 5:00 pm Central Time on the last day of the board election will be counted.

## **G. Communication**

1. The system will send at least three communications (letter, postcards, emails, etc.) to members in the year of election, which state the nominating process, voting period, how to vote, and where to find candidate biographies.
2. The system will post on its website information to cover all aspects of the election, including but not limited to the following:
  - a. Summary of Board of Trustees' responsibilities
  - b. Election timeline;
  - c. Eligibility requirements;
  - d. Nomination process;
  - e. Nominating petitions;
  - f. Ethics forms; and
  - g. Candidate biographies (once available).

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Nov. 17, 2005. Amended: Nov. 19, 2009; July 23, 2013; Dec. 21, 2020.*

# MOSERS Board Rules

## 1-6 Board Member Designees

*PURPOSE: This rule provides for the commissioner of administration and state treasurer to delegate their duties as a trustee as authorized in Section 37.010, RSMo, and Section 30.120, RSMo, respectively.*

1. The commissioner of administration may delegate the commissioner's duties as a member of the board of trustees to any subordinate who has taken the same oath as the commissioner pursuant to Subsection 4 of Section 37.010, RSMo. Such delegation shall be by the commissioner in writing, acknowledged by the designee in writing and submitted to the system for its permanent records.
2. The state treasurer may appoint an assistant treasurer or any other employee of the treasurer's office, who has been appointed and taken the oath of office pursuant to Section 30.120, RSMo., to perform the state treasurer's duties as a member of the board of trustees. Such appointment shall be by the state treasurer in writing, acknowledged by the appointee in writing and submitted to the system for its permanent records.
3. A person who serves as a designee on the board of trustees, pursuant to section 1 or 2 of this board rule, shall be subject to Missouri Revised Statutes relating to the system, MOSERS Governance Policies and MOSERS Board Rules in the same manner as a member of the board of trustees.<sup>1</sup>

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 27, 2007. Amended: Feb. 21, 2018; Mar. 29, 2018; Dec. 21, 2020.*

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<sup>1</sup> The board of trustees shall consist of the state treasurer, the commissioner of administration, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, two members appointed by the governor, and three members who are members of the system. Mo. Rev. Stat. §104.450.

# MOSERS Board Rules

## **CHAPTER 2** *RETIREMENT UNDER THE CLOSED PLAN (MSEP) (104.010-104.800)*

# MOSERS Board Rules

## **2-1 Military Service**

*PURPOSE: This rule sets forth the procedures for purchasing or receiving creditable service in the system for military service.*

1. A member shall not receive credit under Sections 104.330 and 104.340, RSMo, for active duty and active duty for training unless such service is shown on Form DD 214, NGB Form 23, or other comparable form.
2. Purchased military service will be credited under the type of service the member is accruing when the purchase is completed. If the member is not accruing service when the purchase is completed, the purchased service will be credited under the type of service last accrued prior to the completion of the purchase. No military service will be credited until final payment has been received.
3. Members may not purchase or receive additional creditable service for periods of military service that coincide with periods of employment at a MOSERS covered department for which the member has already received creditable service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Nov. 15, 2000; Dec. 21, 2020.*

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## **2-2 Notification of Unpaid Leave**

*PURPOSE: This rule sets forth the manner in which the system will be notified of a member's unpaid leave for purposes of complying with Section 104.374, RSMo., relating to service credit for unpaid leave.*

The employing department shall give written notice, via electronic files sent to the system or on a form provided by the system, when the employee goes on an unpaid leave due to illness and when the employee returns to work, or at the end of twelve months absence, whichever is sooner. Absence because of pregnancy shall be considered absence for sickness or injury.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

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## **2-3 Notification of Termination of Active Employment and Unused Sick Leave**

*PURPOSE: This rule sets forth the manner in which the system will be notified of a member's termination and the member's unused sick leave accrual.*

1. The employing department shall give written notice, via electronic files sent to the system or on a form provided by the system, when each officer or employee leaves employment. The termination form shall include a statement of the date of the last payroll period for which the employee will be paid.
2. For purposes of Section 104.601, RSMo, the employing department shall report unused sick leave expressed in hours through electronic files sent to the system or on a form provided by the system. The system will credit one twelfth of a year of service for every 168 hours of unused sick leave if the member works continuously until reaching retirement eligibility.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Mar. 30, 2002; Dec. 21, 2020.*

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## **2-4 Computation of Credit**

*PURPOSE: This rule sets forth the manner in which credit is to be calculated for purposes of determining “creditable service” as defined in Section 104.010, RSMo.*

In determining prior service credit and in calculation of creditable service, one calendar month equals one-twelfth of a year and any remaining days shall be converted into months (or one-twelfth of a year) on the basis that each 30 calendar days equals one month and a remainder of 27 or more days will be credited as an additional month. Any balance of less than 27 days will not be used in the calculation. Credit will be computed using the date of employment to the date of termination. Credit will be granted for up to one year of authorized sick leave without pay due to an employee's illness or injury. Credit will not be granted for any other periods of leave without pay unless otherwise provided by law.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

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## 2-5 Verification of Service

*PURPOSE: This rule sets forth the procedures for receiving or purchasing creditable service in the system.*

1. Service must be verified before credit is granted. Proof of service that will be accepted by the system is listed in order of preference:
  - a. Certification by the employing department's payroll/personnel officer listing periods of employment by dates, position, and status or similar certification from the Personnel Division of the Office of Administration for employment in agencies for which the division maintains central payroll/personnel records. Such employing department must certify that the position in which service was rendered required at least 1,040 hours of service per year during any time period on or after August 28, 2007, at least 1,000 hours of service per year for service during any time period on or after October 1, 1984 but prior to August 28, 2007, and at least 1,500 hours of service per year for service during any time period prior to October 1, 1984.
  - b. Certification from retirement records, listing employing department, periods of employment by dates and, if available, position and status.
2. Service may not be purchased pursuant to Section 104.344, RSMo., unless the employer was a governmental entity created pursuant to state law and the employer certifies that the position in which service was rendered required at least the applicable hours as required in subsection 1(a) of this rule. Service performed for a MOSERS covered department that did not qualify as “creditable service” as defined in Section 104.010, RSMo., may not be purchased under Section 104.344, RSMo.
3. Service may not be purchased pursuant to Section 105.691, RSMo, unless the prior system or employer was a governmental entity created pursuant to state law and the employer certifies that the position in which service was rendered required at least the applicable hours as required in subsection 1(a) of this rule. Service performed for a MOSERS covered department that did not qualify as “creditable service” as defined in Section 104.010, RSMo., may not be purchased under Section 105.691, RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: July 20, 2002; July 20, 2003; July 12, 2008; Dec. 21, 2020.*



# MOSERS Board Rules

## **2-6 Cost of Living Allowance**

*PURPOSE: This rule sets forth the manner in which the cost-of-living adjustment authorized in Sections 104.415 and 104.612, RSMo., is calculated.*

Pursuant to Sections 104.415 and 104.612, RSMo, the annual increase in benefits and/or compensation shall be calculated based upon the percentage increase from year to year in the average monthly values of the consumer price index for all urban consumers (CPI-U) for a calendar year and the increase shall be calculated to the nearest one-thousandth of a percent.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **2-7 Break in Service**

*PURPOSE: This rule sets forth the procedure for determining when an employee has a break in service.*

An employee will have a break in service when the employee is off payroll for 30 calendar days, except when the employee is on an approved leave-of-absence. An approved leave-of-absence without pay will not constitute a break in service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **2-8 Employees Working in More Than One Position**

*PURPOSE: This rule sets forth the manner in which creditable service and compensation are earned by a member working in more than one position for a department(s).*

If a person is employed in at least one position qualifying as an “employee” as defined in Section 104.010, RSMo., and is also employed by a department in a position that would otherwise qualify as an “employee” except that the position normally requires less than 1,040 hours per year:

1. the employee shall accrue membership service at a rate of one day for each calendar day of employment and shall not accrue more than one day of service for any one day of employment; and
2. the employee shall have any compensation received for services performed in the positions described in this rule included as “compensation” as defined in Section 104.010, RSMo., subject to the specific exclusions in that definition. Statutorily required contributions must be paid to the system on any compensation included under this rule.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 12, 2010; Dec. 21, 2020.*

# MOSERS Board Rules

## **2-9 Options Under Section 104.395, RSMo.**

*PURPOSE: This rule sets forth the procedure for naming a spouse or other individual as beneficiary and their eligibility, as provided for in Section 104.395, RSMo.*

1. With respect to options 1 and 2 under Section 104.395, RSMo, spouse means the spouse at the time the retirement application is filed. If the member's spouse dies before the annuity starting date but after the retirement application is filed the member may cancel the member's election and make a new election. The new election shall be effective the first of the month following the date of such spouse's death.
2. With respect to options 3 and 4 under Section 104.395, RSMo, the beneficiary or beneficiaries must be designated in the retirement election. The beneficiaries may be changed by a subsequent designation filed by the member.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **2-10 Service Adjustments for Wrongful Termination**

*PURPOSE: This rule sets forth the procedure for determining creditable service and compensation when a member has been wrongfully terminated.*

In order for an employee to receive retirement credit for the period since his/her dismissal, the employee must be paid a salary or wage for that period of time and the appropriate contribution must be made to the system. The amount of the salary or wage is not pertinent to the employee receiving retirement credit from the system; the amount of salary or wage is a matter to be agreed upon by the department and the employee. However, the amount of salary or wage paid to the employee may affect the amount of the member's retirement benefit. In addition to the previous requirements, any agreement where a dismissed employee receives retirement credit must be approved by a court of law, or administrative tribunal with jurisdiction, so that it has the effect of a court order. The member shall be considered to be on a leave-of-absence without pay (no credit) for the period(s) for which the member receives no back wages, which will not constitute a break in service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## 2-11 Employees on Layoff Status

*PURPOSE: This rule sets forth the procedures for determining layoff status and coverage while in layoff status.*

1. For purposes of this rule, a "layoff" occurs when a department lays off an employee by reason of a shortage of work or funds, the abolition of the position, or other material change in the duties or the organization, or for other related reasons which are outside the employee's control and which do not reflect poor job performance by the employee. This definition is intended to include a furlough, reduction in workforce, or any similar situation where a department eliminates position(s) due to the above reasons. In the event of a layoff, a department should submit a leave of absence form indicating layoff status to the system.
2. Employees on layoff status may continue their basic and optional group life insurance and long-term disability coverage at their own expense. The continuation of such insurance is subject to the terms of coverage for such insurance, but in no event may such insurance be continued beyond 12 months after the employee is laid off. The premium for an individual on layoff status for basic and optional life insurance will be based on the premium that would have been paid by the department for basic coverage and by the individual for optional coverage if the individual had been on active status during the layoff period. The amount of life insurance will be limited to the amount in effect at the date of the layoff. The charge to an individual for long-term disability coverage will be based on the rate of pay in effect at the time of the layoff and the long-term disability rates in effect for active employees during the layoff period. An employee may not earn credited service or salary credit for retirement while on layoff status.
3. Upon reinstatement of an employee on layoff status, the system will reestablish service credit for the employee as of the date of reinstatement.
4. If an employee on layoff status does not return to active employment within 12 months from the date of the employee's layoff, the system will automatically terminate the member and all coverages in effect at the time. This termination will constitute a break in service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: July 18, 2020.*

# MOSERS Board Rules

## **2-12 Creditable Prior Service for Members of the General Assembly**

*PURPOSE: This rule sets forth the manner in which credit is to be calculated for purposes of determining “creditable prior service” as defined in Section 104.010, RSMo.*

1. Except as otherwise provided by law, creditable prior service shall be credited for members of the general assembly by adding all of the creditable prior service that a member has immediately prior to retirement to arrive at total years and months of creditable service and dividing that by 24 (two years expressed in months). Each whole two-year period shall be credited as a biennial assembly and any remaining period of less than two years shall be credited as a biennial assembly.
2. This rule shall not apply to any creditable prior service of a member that has been previously credited in the member's record by staff prior to June 30, 1997.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **2-14 Benefit Eligibility For Full-time and Temporary Employees**

*PURPOSE: This rule sets forth the procedures for complying with Section 104.010, RSMo., relating to membership in the system.*

1. Employees who work in positions after August 28, 2007, normally requiring at least 1,040 hours a year are eligible for benefits from the system. Employees who work in positions prior to August 28, 2007 but on or after October 1, 1984 normally requiring at least 1,000 hours a year are eligible for benefits from the system. Employees who work in positions prior to October 1, 1984 normally requiring at least 1,500 hours a year are eligible for benefits from the system.
2. The number of hours required by a position should be based on the number of hours expected during the normal course of business over a one-year period by position, regardless of whether the position is intended to be temporary or permanent in nature.
3. The department shall determine benefit eligibility of a position at the time the employee is hired.
4. If an employee is determined to be in a benefit eligible position, a membership form shall be completed and sent to the system.
5. If an employee is determined not to be in a benefit eligible position, the department should inform the employee of that fact and maintain documentation to that effect.
6. If, after an employee is hired, the department subsequently determines that the employee's position is a benefit eligible position as described in Section 1 of this rule, the system will grant service credit requests for service rendered if:
  - a. The department submits a membership form for the employee backdated to the original start date;
  - b. The department provides the system with information regarding salary earned by the employee for each month of service requested; and
  - c. The system receives contributions for the salary and period of service requested.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 18, 2010; Dec. 21, 2020.*



# MOSERS Board Rules

## **2-15 Electronic Funds Transfer**

*PURPOSE: This rule sets forth the manner in which retirement benefits will be paid to members and survivors.*

All retirement and survivor benefits or other periodic payments paid by the system shall be paid to the recipients of such payments by electronic funds transfer, unless the benefit recipient requests not to use electronic funds transfer. All retirement and survivor benefits or other periodic payments paid by the system with a starting date after January 1, 2021 shall be paid to the recipients of such payments by electronic funds transfer.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 1, 2000. Amended: Nov. 16, 2006; Dec. 21, 2020.*

# MOSERS Board Rules

## **2-17 Interest Charged Members (MSEP)**

*PURPOSE: This rule sets forth the rate of interest charged to members.*

Unless otherwise specifically provided under Chapter 104, RSMo., the rate of interest charged to members or other persons under the closed plan shall be equal to the assumed rate of return on the date of application adopted by the board for the fiscal year in which the application is dated.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 18, 2010. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## 2-20 Judicial Buyout

*PURPOSE: This rule sets forth the procedures for an active judge to make a one-time election to receive a lump sum buyout of the member's deferred normal retirement annuity in the closed plan or year 2000 plan (the "Judicial Buyout"), in accordance with section 104.1089, RSMo.*

### Eligibility

1. Except as otherwise provided under this rule, a member that is employed as an active judge in a position covered by a retirement plan administered under Chapter 476, RSMo., may elect to participate in the Judicial Buyout, if at the time the system receives a complete application by the member, such member:
  - a. is eligible for a deferred normal retirement annuity from MOSERS under Chapter 104, RSMo.; and
  - b. relative to such deferred normal retirement annuity has reached normal retirement age and would otherwise be eligible to receive such normal retirement annuity from MOSERS under Chapter 104, RSMo., but for active employment as a judge, or is at least age 59 ½.
2. Notwithstanding section 1 of this board rule, a member may not participate in the Judicial Buyout if the member:
  - a. is subject to a Division of Benefit Order ("DBO") issued by a court under sections 104.312 or 104.1051, RSMo, and the system has received notice of the DBO before the system issues the buyout payment;
  - b. is married at the time of the election to participate in the Judicial Buyout unless the member's spouse consents in writing to the election;
  - c. dies and the system receives timely notice of the member's death before the system issues the buyout payment;
  - d. is not employed as an active judge in a position covered by a retirement plan administered under Chapter 476, RSMo, and the system has received timely notice of such termination before the system issues the buyout payment; or
  - e. has received an annuity payment under Chapter 104, RSMo., based on the closed plan service or year 2000 plan service.
3. A member may rescind an application in writing, via email or paper, made under section 1 of this board rule if MOSERS receives such rescission before the system issues the buyout payment.

# MOSERS Board Rules

## Payment Calculation

4. The buyout payment made under the Judicial Buyout shall be equal to 60% of the present value of the member's deferred normal retirement annuity as determined under this board rule.
5. The discount rate used to calculate the present value of the member's deferred normal retirement annuity shall be equal to the assumed investment rate of return adopted by the Board for the fiscal year in which the written estimate is dated (the "Assumed Rate of Return").
6. For members of the closed plan employed before August 28, 1997, the assumption for the cost of living adjustments used to calculate the present value of the member's deferred normal retirement annuity shall be 4.00% compounded until the 65% cap is reached, then equal to the assumed cost-of-living adjustment adopted by the Board for the fiscal year in which the written estimate is dated, compounded for life. For members of the closed plan employed on or after August 28, 1997 or members of the year 2000 plan, the assumption for cost of living adjustments used to calculate the present value of the member's deferred normal retirement annuity shall be equal to the assumed cost-of-living adjustment adopted by the Board for the fiscal year in which the written estimate is dated, compounded for life.
7. Present value of the deferred normal retirement annuity will be determined using the Assumed Rate of Return and the mortality assumption adopted by the Board for the fiscal year in which the written estimate is dated. The mortality rates will be unisex using a 50% male/50% female blend of rates.
8. The system's actuary shall determine the present value of the member's deferred normal retirement annuity based on the date of the written estimate.
9. For any member who is covered by the closed plan and is eligible to elect coverage under the year 2000 plan, the member shall be deemed to have elected coverage in the plan that results in the greater buyout payment for the member.
10. Upon request, the system shall provide each member who is eligible or may be eligible to participate in the Judicial Buyout with a disclosure that includes:
  - a. an estimate of the amount of the projected buyout payment under the Judicial Buyout and an estimate of the monthly amount of the member's projected normal retirement annuity if the buyout is not elected; and
  - b. a description of the actuarial assumptions used in the calculation of the present value of the member's deferred normal retirement annuity under the Judicial Buyout.

## Payment

11. The Judicial Buyout payment will be made to the eligible member within 30 calendar days of receipt of the complete application by the system.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Sept 5, 2020.*

# MOSERS Board Rules

## 2-21 Contribution Alternative

*PURPOSE: This rule sets forth the procedures for a department to pre-pay the annual amount due to the system for the normal cost and/or unfunded actuarial accrued liabilities.*

1. The certified contribution rate as described in section 104.436, RSMo., consists of two components: (1) payment of the normal cost rate, including costs of administration of the system; and (2) payment to fund the unfunded actuarial accrued liabilities (“UAAL”) of the system based upon the amortization policy approved by the Board.
2. Except as otherwise provided below, a department shall pay the total amount due for both components in accordance with its ordinary course payrolls during each fiscal year. Alternatively, a department may elect to pre-pay the amount due for one or both components. The prepayment amount will be calculated based upon the present value of expected payments for the fiscal year using assumed payroll as reflected in the results of the actuarial valuation report on which the certified rate was set. A credit will be given to the department equal to the difference between the expected employer contributions in the valuation and the prepayment amount, as calculated by the system’s actuary. The actual amount due to the system will be based upon actual payroll for the fiscal year.
3. A department may pre-pay one or both components of its contribution to the system for the remainder of a fiscal year on July 15, September 1, or November 1. In order to pre-pay any component, a department must notify the system of its election to pre-pay for the fiscal year or the remainder of the fiscal year, whichever is applicable, at least 30 days in advance of the pre-payment date. A department shall continue to pay the certified contribution rate on actual payroll until the pre-payment date.
4. If, as a result of a decrease in the actual payroll as compared to the assumed payroll used in setting the contribution rate, the pre-payment results in an overpayment to the system for the fiscal year, the system shall provide a credit to the department based upon actual payroll to be applied to reduce future contribution payments and shall notify the department of such credit promptly after the amount thereof is determined. If, as a result of an increase in the actual payroll compared to the assumed payroll used in setting the contribution rate, the pre-payment results in an underpayment to the system for the fiscal year, the department shall pay the system the underpaid amount based upon actual payroll, as soon as reasonably practicable after notice thereof to the department.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 18, 2020.*

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# MOSERS Board Rules

## CHAPTER 3 RETIREMENT UNDER THE YEAR 2000 PLAN (MSEP 2000) (104.1003-104.1093)

# MOSERS Board Rules

## **3-1 Military Service**

*PURPOSE: This rule sets forth the procedures for purchasing or receiving creditable service in the system for military service.*

1. A member shall not receive credit under Section 104.1021, RSMo, for active duty and active duty for training unless such service is shown on Form DD 214, NGB Form 23, or other comparable form.
2. No military service will be credited until final payment has been received.
3. Members may not purchase or receive additional credited service for periods of military service that coincide with periods of employment at a MOSERS covered department for which the member has already received credited service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Nov. 15, 2001; Dec. 21, 2020.*



# MOSERS Board Rules

## **3-2 Notification of Unpaid Leave**

*PURPOSE: This rule sets forth the manner in which the system will be notified of a member's unpaid leave for purposes of complying with Section 104.1021, RSMo. relating to service credit for unpaid leave.*

The employing department shall give written notice, via electronic files sent to the system or on a form provided by the system, when the employee goes on an unpaid leave due to illness and when an employee returns to work, or at the end of 12 months absence, whichever is sooner. Absence because of pregnancy shall be considered absence for sickness or injury.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **3-3 Notification of Termination of Active Employment and Unused Sick Leave**

*PURPOSE: This rule sets forth the manner in which the system will be notified of a member's termination and the member's unused sick leave accrual.*

1. The employing department shall give written notice, via electronic files sent to the system or on a form provided by the system, when each officer or employee leaves employment. The termination form shall include a statement of the date of the last payroll period for which the employee will be paid.
2. For purposes of Section 104.1021, RSMo, the employing department shall report unused sick leave expressed in hours through electronic files sent to the system or on a form provided by the system. The system will credit one twelfth of a year of service for every 168 hours of unused sick leave.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Mar. 30, 2002; Dec. 21, 2020.*

# MOSERS Board Rules

## **3-4 Computation of Credit**

*PURPOSE: This rule sets forth the manner in which credit is to be calculated for purposes of determining “credited service” as defined in Section 104.1003, RSMo.*

In determining prior service credit and in calculation of creditable service, one calendar month equals one-twelfth of a year and any remaining days shall be converted into months (or one-twelfth of a year) on the basis that each 30 calendar days equals one month and a remainder of 27 or more days will be credited as an additional month. Any balance of less than 27 days will not be used in the calculation. Credit will be computed using the date of employment to the date of termination. Credit will be granted for up to one year of authorized sick leave without pay due to an employee's illness or injury. Credit will not be granted for any other periods of leave without pay unless otherwise provided by law.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## 3-5 Verification of Service

*PURPOSE: This rule sets forth the procedures for receiving or purchasing creditable service in the system.*

1. Service must be verified before credit is granted. Proof of service that will be accepted by the system is listed in order of preference:
  - a. Certification by the employing department's payroll/personnel officer listing periods of employment by dates, position, and status or similar certification from the Personnel Division of the Office of Administration for employment in agencies for which the division maintains central payroll/personnel records. Such employing department must certify that the position in which service was rendered required at least 1,040 hours of service per year during any time period on or after August 28, 2007, at least 1,000 hours of service per year for service during any time period on or after October 1, 1984 but prior to August 28, 2007, and at least 1,500 hours of service per year for service during any time period prior to October 1, 1984.
  - b. Certification from retirement records, listing employing department, periods of employment by dates and, if available, position and status.
2. Service may not be purchased pursuant to Section 104.344, RSMo., unless the employer was a governmental entity created pursuant to state law and the employer certifies that the position in which service was rendered required at least the applicable hours as required in subsection 1(a) of this rule. Service performed for a MOSERS covered department that did not qualify as “credited service” as defined in Section 104.1003, RSMo., may not be purchased under Section 104.344, RSMo.
3. Service may not be purchased pursuant to Section 105.691, RSMo, unless the prior system or employer was a governmental entity created pursuant to state law and the employer certifies that the position in which service was rendered required at least the applicable hours as required in subsection 1(a) of this rule. Service performed for a MOSERS covered department that did not qualify as “credited service” as defined in Section 104.1003, RSMo., may not be purchased under Section 105.691, RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: July 20, 2002; July 20, 2003; July 12, 2008; Dec. 21, 2020.*

# MOSERS Board Rules

## **3-6 Cost of Living Allowance**

*PURPOSE: This rule sets forth the manner in which the cost-of-living adjustment authorized in Section 104.1045, RSMo. is calculated.*

Pursuant to Section 104.1045, RSMo, the annual increase in benefits and/or compensation shall be calculated based upon the percentage increase from year to year in the average monthly values of the consumer price index for all urban consumers (CPI-U) for a calendar year and the increase shall be calculated to the nearest one-thousandth of a percent.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **3-7 Break in Service**

*PURPOSE: This rule sets forth the procedure for determining when an employee has a break in service.*

An employee will have a break in service when the employee is off payroll for 30 calendar days, except when the employee is on an approved leave-of-absence. An approved leave-of-absence without pay will not constitute a break in service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **3-8 Employees Working in More Than One Position**

*PURPOSE: This rule sets forth the manner in which creditable service and compensation are earned by a member working in more than one position for a department(s).*

If a person is employed in at least one position qualifying as an “employee” as defined in Section 104.1003, RSMo., and is also employed by a department in a position that would otherwise qualify as an “employee” except that the position normally requires less than 1,040 hours per year:

1. the employee shall accrue credited service at a rate of one day for each calendar day of employment and shall not accrue more than one day of service for any one day of employment; and
2. the employee shall have any pay received for services performed in the positions described in this rule included as “pay” as defined in Section 104.1003, RSMo., subject to the specific exclusions in that definition. Statutorily required contributions must be paid to the system on any pay included under this rule.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **3-9 Options Under Section 104.1027, RSMo.**

*PURPOSE: This rule sets forth the procedure for naming a spouse or other individual as beneficiary and their eligibility, as provided for in Section 104.1027, RSMo.*

1. With respect to options 1 and 2 under Section 104.1027, RSMo, spouse means the spouse at the time the retirement application is filed. If the member's spouse dies before the annuity starting date but after the retirement application is filed the member may cancel the member's election and make a new election. The new election shall be effective the first of the month following the date of such spouse's death.
2. With respect to options 3 and 4 under Section 104.1027, RSMo, the beneficiary or beneficiaries must be designated in the retirement election. The beneficiaries may be changed by a subsequent designation filed by the member.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*



# MOSERS Board Rules

## **3-10 Service Adjustments for Wrongful Termination**

*PURPOSE: This rule sets forth the procedure for determining creditable service and compensation when a member has been wrongfully terminated.*

In order for an employee to receive retirement credit for the period since his/her dismissal, the employee must be paid a salary or wage for that period of time, and the appropriate contribution must be made to the system. The amount of the salary or wage is not pertinent to the employee receiving retirement credit from the system; the amount of salary or wage is a matter to be agreed upon by the department and the employee. However, the amount of salary or wage paid to the employee may affect the amount of the member's retirement benefit. In addition to the previous requirements, any agreement where a dismissed employee receives retirement credit must be approved by a court of law, or administrative tribunal with jurisdiction, so that it has the effect of a court order. The member shall be considered to be on a leave-of-absence without pay (no credit) for the period(s) for which the member receives no back wages, which will not constitute a break in service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **3-11 Employees on Layoff Status**

*PURPOSE: This rule sets forth the procedures for determining layoff status and coverage while in layoff status.*

1. For purposes of this rule, a "layoff" occurs when a department lays off an employee by reason of a shortage of work or funds, the abolition of the position, or other material change in the duties or the organization, or for other related reasons which are outside the employee's control and which do not reflect poor job performance by the employee. This definition is intended to include a furlough, reduction in workforce, or any similar situation where a department eliminates position(s) due to the above reasons. In the event of a layoff, a department should submit a leave of absence form indicating layoff status to the system.
2. Employees on layoff status may continue their basic and optional group life insurance and long-term disability coverage at their own expense. The continuation of such insurance is subject to the terms of coverage for such insurance, but in no event may such insurance be continued beyond 12 months after the employee is laid off. The monthly premium for an individual on layoff status for basic and optional life insurance will be based on the premium that would have been paid by the department for basic coverage and by the individual for optional coverage if the individual had been on active status during the layoff period. The amount of life insurance will be limited to the amount in effect at the date of the layoff. The monthly charge to an individual for long-term disability coverage will be based on the rate of pay in effect at the time of the layoff and the long-term disability rates in effect for active employees during the layoff period. An employee may not earn credited service or salary credit for retirement while on layoff status.
3. Upon reinstatement of an employee on layoff status, the system will reestablish service credit for the employee as of the date of reinstatement.
4. If an employee on layoff status does not return to active employment within 12 months from the date of the employee's layoff, the system will automatically terminate the member and all coverages in effect at the time. This termination will constitute a break in service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: July 18, 2020.*

# MOSERS Board Rules

## **3-12 Benefit Eligibility for Full-time and Temporary Employees**

*PURPOSE: This rule sets forth the procedures for complying with Section 104.1003, RSMo., relating to membership in the system.*

1. Employees who work in positions after August 28, 2007, normally requiring at least 1,040 hours a year are eligible for benefits from the system. Employees who work in positions prior to August 28, 2007 normally requiring at least 1,000 hours a year are eligible for benefits from the system.
2. The number of hours required by a position should be based on the number of hours expected during the normal course of business over a one-year period by position, regardless of whether the position is intended to be temporary or permanent in nature.
3. The department shall determine benefit eligibility at the time the employee is hired.
4. If an employee is determined to be in a benefit eligible position, a membership form shall be completed and sent to the system.
5. If an employee is determined not to be in a benefit eligible position, the department should inform the employee of that fact and maintain documentation to that effect.
6. If, after an employee is hired, the department subsequently determines that the employee's position is a benefit eligible position as described in Section 1 of this rule, the system will grant service credit requests for service if:
  - a. The department submits a membership form for the employee backdated to the original start date;
  - b. The department provides the system with information regarding salary earned by the employee for each month of service requested; and
  - c. The system receives contributions for the salary and service credit requested.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 18, 2010; Dec. 21, 2020.*

# MOSERS Board Rules

## **3-13 Electronic Funds Transfer**

*PURPOSE: This rule sets forth the manner in which retirement benefits will be paid to members and survivors.*

All retirement and survivor benefits or other periodic payments paid by the system shall be paid to the recipients of such payments by electronic funds transfer, unless the benefit recipient requests not to use electronic funds transfer. All retirement and survivor benefits or other periodic payments paid by the system with a starting date after January 1, 2021 shall be paid to the recipients of such payments by electronic funds transfer.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 1, 2000. Amended: Nov. 16, 2006; Dec. 21, 2020.*

# MOSERS Board Rules

## **3-15 Interest Charged Members (MSEP 2000)**

*PURPOSE: This rule sets forth the rate of interest charged to members.*

Unless otherwise specifically provided under Chapter 104, RSMo, the rate of interest charged to members or other persons under the MSEP 2000 Plan shall be equal to the assumed rate of return on the date of application as adopted by the board of trustees for the fiscal year in which the application is dated.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 18, 2010. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **3-16 Administration of MSEP 2011**

*PURPOSE: This rule sets forth the procedures for reinstatement of forfeited service credit and the refund of employee contribution as authorized in Section 104.1091, RSMo.*

1. A member who previously terminated employment and received a refund of the member's contributions may receive credited service for such forfeited service pursuant to Section 104.1091.8(6), RSMo. Such member must return to work in a benefit eligible position and return to the system the amount previously refunded plus annually compounded interest from the date of the initial refund at the same rate of interest established by the board of trustees under Board Rule 3-15 in effect at the time the member elects to return the previously refunded amount. Members shall have up to 24 months measured from date of election to return the amount refunded plus interest.
2. A member may designate a beneficiary to receive a refund of member contributions upon the member's death as provided for pursuant to Section 104.1091.8(7), RSMo. In the event a member fails to designate a beneficiary or there is not a living beneficiary at the time of the member's death, benefits shall be paid as provided in Section 104.1054.4, RSMo. Staff shall determine any refund due a beneficiary or other eligible person based on the principal amount of employee contributions made by the member including any interest accrued on those amounts pursuant to Section 104.1091.8(5), RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 18, 2010. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## 3-19 Judicial Buyout

*PURPOSE: This rule sets forth the procedures for an active judge to make a one-time election to receive a lump sum buyout of the member's deferred normal retirement annuity in the closed plan or year 2000 plan (the "Judicial Buyout"), in accordance with section 104.1089, RSMo.*

### Eligibility

1. Except as otherwise provided under this rule, a member that is employed as an active judge in a position covered by a retirement plan administered under Chapter 476, RSMo., may elect to participate in the Judicial Buyout, if at the time the system receives a complete application by the member, such member:
  - a. is eligible for a deferred normal retirement annuity from MOSERS under Chapter 104, RSMo.; and
  - b. relative to such deferred normal retirement annuity has reached normal retirement age and would otherwise be eligible to receive such normal retirement annuity from MOSERS under Chapter 104, RSMo., but for active employment as a judge, or is at least age 59 ½.
2. Notwithstanding section 1 of this board rule, a member may not participate in the Judicial Buyout if the member:
  - a. is subject to a Division of Benefit Order ("DBO") issued by a court under sections 104.312 or 104.1051, RSMo, and the system has received notice of the DBO before the system issues the buyout payment;
  - b. is married at the time of the election to participate in the Judicial Buyout unless the member's spouse consents in writing to the election;
  - c. dies and the system receives timely notice of the member's death before the system issues the buyout payment;
  - d. is not employed as an active judge in a position covered by a retirement plan administered under Chapter 476, RSMo, and the system has received timely notice of such termination before the system issues the buyout payment; or
  - e. has received an annuity payment under Chapter 104, RSMo., based on the closed plan service or year 2000 plan service.
3. A member may rescind an application in writing, via email or paper, made under section 1 of this board rule if MOSERS receives such rescission before the system issues the buyout payment.

# MOSERS Board Rules

## Payment Calculation

4. The buyout payment made under the Judicial Buyout shall be equal to 60% of the present value of the member's deferred normal retirement annuity as determined under this board rule.
5. The discount rate used to calculate the present value of the member's deferred normal retirement annuity shall be equal to the assumed investment rate of return adopted by the Board for the fiscal year in which the written estimate is dated (the "Assumed Rate of Return").
6. For members of the closed plan employed before August 28, 1997, the assumption for the cost of living adjustments used to calculate the present value of the member's deferred normal retirement annuity shall be 4.00% compounded until the 65% cap is reached, then equal to the assumed cost-of-living adjustment adopted by the Board for the fiscal year in which the written estimate is dated, compounded for life. For members of the closed plan employed on or after August 28, 1997 or members of the year 2000 plan, the assumption for cost of living adjustments used to calculate the present value of the member's deferred normal retirement annuity shall be equal to the assumed cost-of-living adjustment adopted by the Board for the fiscal year in which the written estimate is dated, compounded for life.
7. Present value of the deferred normal retirement annuity will be determined using the Assumed Rate of Return and the mortality assumption adopted by the Board for the fiscal year in which the written estimate is dated. The mortality rates will be unisex using a 50% male/50% female blend of rates.
8. The system's actuary shall determine the present value of the member's deferred normal retirement annuity based on the date of the written estimate.
9. For any member who is covered by the closed plan and is eligible to elect coverage under the year 2000 plan, the member shall be deemed to have elected coverage in the plan that results in the greater buyout payment for the member.
10. Upon request, the system shall provide each member who is eligible or may be eligible to participate in the Judicial Buyout with a disclosure that includes:
  - a. an estimate of the amount of the projected buyout payment under the Judicial Buyout and an estimate of the monthly amount of the member's projected normal retirement annuity if the buyout is not elected; and
  - b. a description of the actuarial assumptions used in the calculation of the present value of the member's deferred normal retirement annuity under the Judicial Buyout.

## Payment

11. The Judicial Buyout payment will be made to the eligible member within 30 calendar days of receipt of the complete application by the system.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Sept 5, 2020.*



# MOSERS Board Rules

## CHAPTER 4 RETIREMENT UNDER THE JUDICIAL AND ADMINISTRATIVE LAW JUDGE PLAN

# MOSERS Board Rules

## **4-1 Military Service**

*PURPOSE: This rule sets forth the procedures for purchasing or receiving creditable service in the system for military service.*

1. A judge or administrative law judge shall not receive credit respectively under Sections 476.524 or 287.856, RSMo, for active duty and active duty for training unless such service is shown on Form DD 214, NGB Form 23, or other comparable form.
2. No military service will be credited until final payment has been received.
3. A judge or administrative law judge may not purchase or receive additional credited service for periods of military service that coincide with periods of employment for which the member has already received credited service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **4-2 Notification of Unpaid Leave**

*PURPOSE: This rule sets forth the manner in which the system will be notified of a member's unpaid leave for purposes of providing service credit for unpaid leave.*

The employing department shall give written notice via electronic files sent to the system or on a form provided by the system, when the judge or administrative law judge goes on an unpaid leave due to illness and when the judge or administrative law judge returns to work, or at the end of 12 months absence, whichever is sooner. Absence because of pregnancy shall be considered absence for sickness or injury.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **4-3 Notification of Termination of Active Employment**

*PURPOSE: This rule sets forth the manner in which the system will be notified of a member's termination and the member's unused sick leave accrual.*

The employing department shall give written notice via electronic files sent to the system or on a form provided by the system, when a judge or administrative law judge leaves employment, which notice shall include a statement of the date of the last payroll period for which the judge will be paid.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## 4-4 Verification of Service

*PURPOSE: This rule sets forth the procedures for receiving or purchasing creditable service in the system.*

1. Service must be verified before credit is granted. Proof of service that will be accepted by the system is listed in order of preference:
  - a. Certification by the employing department's payroll/personnel officer listing periods of employment by dates, position, and status or similar certification from the Personnel Division of the Office of Administration for employment in agencies for which the division maintains central payroll/personnel records.
  - b. Certification from retirement records, listing employing department, periods of employment by dates and, if available, position and status.
2. Service may not be purchased pursuant to Sections 104.344 or 105.691, RSMo., unless the employer was a governmental entity created pursuant to state law and the employer certifies that the position in which service was rendered required at least the applicable hours as required in subsection 1(a) of this Board Rule 2-5. Service performed for a MOSERS covered department that did not qualify as “creditable service” as defined in Section 104.010, RSMo., may not be purchased under 104.344, RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **4-5 Cost of Living Allowance**

*PURPOSE: This rule sets forth the manner in which the cost-of-living adjustment authorized in Sections 476.601 and 287.820, RSMo., is calculated.*

Pursuant to Sections 476.601 and 287.820, RSMo, the annual increase in benefits and/or compensation shall be calculated based upon the average of the monthly values of the consumer price index for all urban consumers (CPI-U) for a calendar year and the increase shall be calculated to the nearest one-thousandth of a percent.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **4-6 Electronic Funds Transfer**

*PURPOSE: This rule sets forth the manner in which retirement benefits will be paid to members and survivors.*

All retirement and survivor benefits or other periodic payments paid by the system shall be paid to the recipients of such payments by electronic funds transfer, unless the benefit recipient requests not to use electronic funds transfer. All retirement and survivor benefits or other periodic payments paid by the system with a starting date after January 1, 2021 shall be paid to the recipients of such payments by electronic funds transfer.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 1, 2000.  
Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **4-7 Interest Charged to Judges**

*PURPOSE: This rule sets forth the rate of interest charged to members.*

Unless otherwise specifically provided under Chapter 476 or Chapter 287, RSMo, the rate of interest charged to a judge or administrative law judge or other persons covered under the Judicial Plan shall be equal to the assumed rate of return on the date of application as adopted by the board of trustees for the fiscal year in which the application is dated.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 21, 2020.*



# MOSERS Board Rules

## **4-8 Administration of Judicial 2011 Tier**

*PURPOSE: This rule sets forth the procedures for reinstatement of forfeited service credit and the refund of employee contribution when no beneficiary is named.*

1. A judge who previously terminated employment and received a refund of the member's contributions may receive credited service for such forfeited service pursuant to Section 476.521.6(6), RSMo. Such judge must return to work in a position covered by the Judicial Plan and return to the system the amount previously refunded plus annually compounded interest from the date of the initial refund at the same rate of interest established by the board of trustees under Board Rule 4-7 in effect at the time the judge elects to return the previously refunded amount. Judges shall have up to 24 months measured from date of election to return the amount refunded plus interest.
2. A judge may designate a beneficiary to receive a refund of a judge's contributions upon the judge's death as provided for pursuant to Section 476.521.6(7), RSMo. In the event a judge fails to designate a beneficiary or there is not a living beneficiary at the time of the judge's death, benefits shall be paid as provided in Section 476.529, RSMo., as if the judge was a deceased member under that section. Staff shall determine any refund due a beneficiary or other eligible person based on the principal amount of employee contributions made by the judge including any interest accrued on those amounts pursuant to Section 476.521.6(5), RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 21, 2020.*

# MOSERS Board Rules

## **4-9 Termination of Employment and Reemployment of ALJ Plan Retiree**

*PURPOSE: The purpose of this rule is to set-forth procedures relative to compliance with the Internal Revenue Code and Treasury Regulations regarding retiree re-employment and in-service distributions.*

1. An administrative law judge or legal advisor (collectively, a “member”) is not entitled to receive an in-service distribution from the system.
2. An in-service distribution occurs when a member receives a distribution from the system without a bona fide termination of the member’s employment. To receive retirement benefits from the system, a member must have a bona fide termination of the member’s employment and satisfy the other requirements of Chapter 287.
3. For purposes of this rule, a "bona fide termination" occurs when: (i) a member has completely severed the member’s employment; (ii) the member has not entered into a prearranged agreement, prior to retirement, with any employer for subsequent employment on any basis (full-time, part-time, or other); and (iii) the member is not subsequently employed by any employer on any basis (full-time, part-time, or other) within 30 days after the member’s employment with the member’s prior employer has ended.
4. For purposes of this rule, “employer” means the State of Missouri or any other employer covered by Chapters 104, 287, or 476, RSMo.
5. If a member receives retirement benefits without a bona fide termination, then: (a) all further benefit payments shall cease; and (b) the member shall be required to repay to the system all retirement benefits received from the system plus applicable interest based on the assumed rate of return on the date of the member's retirement. Any amounts, including interest, not repaid by the member to the system shall be subject to collection from the member's future retirement benefits. The member’s retirement shall be deemed null and void and during the member’s continued employment, the member shall be treated as having not retired for purposes of benefit accrual and shall be subject to all plan provisions for active members. In addition, any payment deemed to be an in-service distribution may be subject to a 10% early distribution penalty.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 21, 2020.*

# MOSERS Board Rules

## **4-10 Termination of Employment and Reemployment of Judicial Plan Retiree or Judicial Plan 2011 Retiree**

*PURPOSE: The purpose of this rule is to set-forth procedures relative to compliance with the Internal Revenue Code and Treasury Regulations regarding retiree re-employment and in-service distributions.*

1. A judge is not entitled to receive an in-service distribution from the system, except while serving as a senior commissioner or a senior judge.
2. An in-service distribution occurs when a judge receives a distribution from the system without a bona fide termination of the judge's employment. To receive retirement benefits from the system, a judge must have a bona fide termination of the judge's employment and satisfy the other requirements of Chapter 476.
3. For purposes of this rule, a "bona fide termination" occurs when: (i) a judge has completely severed the judge's employment; (ii) the judge has not entered into a prearranged agreement, prior to retirement, with any employer for subsequent employment on any basis (full-time, part-time, or other); and (iii) the judge is not subsequently employed by any employer on any basis (full-time, part-time, or other) within 30 days after the judge's employment with the judge's prior employer has ended.
4. For purposes of this rule, "employer" means the State of Missouri or any other employer covered by Chapters 104, 287, or 476, RSMo.
5. If a judge receives retirement benefits without a bona fide termination, then: (a) all further benefit payments shall cease; and (b) the judge shall be required to repay to the system all retirement benefits received from the system plus applicable interest based on the assumed rate of return on the date of the judge's retirement. Any amounts, including interest, not repaid by the judge to the system shall be subject to collection from the judge's future retirement benefits. The judge's retirement shall be deemed null and void and during the judge's continued employment, the judge shall be treated as having not retired for purposes of benefit accrual and shall be subject to all plan provisions for active judges. In addition, any payment deemed to be an in-service distribution may be subject to a 10% early distribution penalty.
6. If a judge serves as a senior commissioner or senior judge without a bona fide termination, all benefit payments received while the judge is under the age of 59 ½ may be subject to a 10% early distribution penalty.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 21, 2020.*

# MOSERS Board Rules

## 4-11 Contribution Alternative

*PURPOSE: This rule sets forth the procedures for a department to pre-pay the annual amount due to the system for the normal cost and/or unfunded actuarial accrued liabilities.*

1. The certified contribution rate as described in section 476.580, RSMo., consists of two components: (1) payment of the normal cost rate, including costs of administration of the system; and (2) payment to fund the unfunded actuarial accrued liabilities (“UAAL”) of the system based upon the amortization policy approved by the Board.
2. Except as otherwise provided below, a department shall pay the total amount due for both components in accordance with its ordinary course payrolls during each fiscal year. Alternatively, a department may elect to pre-pay the amount due for one or both components. The prepayment amount will be calculated based upon the present value of expected payments for the fiscal year using assumed payroll as reflected in the results of the actuarial valuation report on which the certified rate was set. A credit will be given to the department equal to the difference between the expected employer contributions in the valuation and the prepayment amount, as calculated by the system’s actuary. The actual amount due to the system will be based upon actual payroll for the fiscal year.
3. A department may pre-pay one or both components of its contribution to the system for the remainder of a fiscal year on July 15, September 1, or November 1. In order to pre-pay any component, a department must notify the system of its election to pre-pay for the fiscal year or the remainder of the fiscal year, whichever is applicable, at least 30 days in advance of the pre-payment date. A department shall continue to pay the certified contribution rate on actual payroll until the pre-payment date.
4. If, as a result of a decrease in the actual payroll as compared to the assumed payroll used in setting the contribution rate, the pre-payment results in an overpayment to the system for the fiscal year, the system shall provide a credit to the department based upon actual payroll to be applied to reduce future contribution payments and shall notify the department of such credit promptly after the amount thereof is determined. If, as a result of an increase in the actual payroll compared to the assumed payroll used in setting the contribution rate, the pre-payment results in an underpayment to the system for the fiscal year, the department shall pay the system the underpaid amount based upon actual payroll, as soon as reasonably practicable after notice thereof to the department.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 18, 2020.*

# MOSERS Board Rules

## **4-12 Vesting**

*PURPOSE: This rule sets forth the manner in which a Judge waives retirement benefits under Section 476.683, RSMo.*

1. Notwithstanding RSMo § 476.683 or any other provision of the Judicial Plans to the contrary, a member shall be 100% vested in the benefits provided under the Plan upon reaching the Plan's eligibility requirements for an unreduced retirement benefit.
2. Pursuant to RSMo § 476.683, a member who becomes eligible for retirement compensation after August 13, 1988, but does not retire before reaching the stipulated age shall cease accruing service and compensation credit benefits under the Plan as of the date the member turns the stipulated age. Any service or compensation that would otherwise accrue after the Judge reached the stipulated age shall not be considered when calculating the member's retirement benefit.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Feb. 17, 2023.*

# MOSERS Board Rules

## **4-13 Application of Chapter 104**

*PURPOSE: This rule clarifies that provisions in Chapter 104 necessary for compliance with the Internal Revenue Code also apply to the Judicial Plan and the Administrative Law Judge and Legal Advisor Retirement Plan.*

1. Unless the context clearly indicates otherwise, the provisions of Chapter 104 of the RSMo that apply to the Missouri State Employees Retirement Plan also apply to the Judicial Plans and the Administrative Law Judge and Legal Advisor Retirement Plan ("ALJ Plan").

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Feb. 17, 2023.*

# MOSERS Board Rules

## CHAPTER 5 LIFE INSURANCE

# MOSERS Board Rules

## **5-1 Procurement by Contract**

*PURPOSE: This rule provides for the engagement of a life insurance provider as authorized by Sections 104.517 and 104.1072, RSMo.*

Under the authority granted by Sections 104.517 and 104.1072, RSMo, the board of trustees has elected to procure life insurance by contract through a group policy issued by an insurance company licensed in the state of Missouri.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*



# MOSERS Board Rules

## 5-2 Procurement Procedures

*PURPOSE: This rule sets forth the method and manner in which the system will monitor a life insurance provider.*

The following information shall be provided at applicable intervals, referenced below, to the board of trustees by mail or electronically (via email or on the board website) unless the executive director decides or the board of trustees requests that the information is to be presented in person during a regularly scheduled board meeting.

1. The insurance/risk manager consultant shall advise the board of trustees annually of the conditions of the life insurance marketplace and whether or not rates have changed significantly.
2. Beginning in 2003, the insurance/risk manager consultant and the system staff shall conduct periodic due diligence meetings with the life insurance provider at least every three years in order to analyze plan design, customer service, and rate issues. The Consultant and the system's staff will summarize the findings of these meetings in a report to the board of trustees.
3. The executive director may recommend to the board of trustees changes to the life insurance contract or the issuance of a request for proposal from additional insurers:
  - a. Based on the information provided to the board of trustees under this rule;  
or
  - b. Whenever the executive director determines it is appropriate to do so.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Nov. 21, 2002. Amended: Dec. 21, 2020.*

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# MOSERS Board Rules

## CHAPTER 6 LONG-TERM DISABILITY INSURANCE

# MOSERS Board Rules

## **6-1 Procurement by Contract**

*PURPOSE: This rule provides for the engagement of a long-term disability insurance provider as authorized by Sections 104.518 and 104.1075, RSMo.*

Under the authority granted by Sections 104.518 and 104.1075, RSMo, the board of trustees has elected to procure long-term disability coverage by contract through a group policy issued by an insurance company licensed in the state of Missouri.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 31, 1999. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## 6-2 Procurement Procedures

*PURPOSE: This rule sets forth the method and manner in which the system will monitor a long-term disability insurance provider.*

The following information shall be provided at applicable intervals, referenced below, to the board of trustees by mail or electronically (via email or on the board website) unless the executive director decides or the board of trustees requests that the information is to be presented in person during a regularly scheduled board meeting.

1. The insurance/risk manager consultant shall advise the board of the conditions of the long-term disability insurance marketplace and whether or not rates have changed significantly.
2. Beginning in 2003, the insurance/risk manager consultant and the system's staff shall conduct periodic due diligence meetings with the long-term disability insurance provider at least every three years in order to analyze plan design, customer service, and rate issues. The consultant and the system's staff will summarize the findings of these meetings in a report to the board of trustees.
3. The executive director may recommend to the board of trustees changes to the long-term disability insurance contract or the issuance of a request for proposal from additional insurers:
  - a. Based on the information provided to the board of trustees under this rule;  
or
  - b. Whenever the executive director determines it is appropriate to do so.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Nov. 21, 2002. Amended: Dec. 21, 2020.*

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# MOSERS Board Rules

## CHAPTER 7 COLLEGE AND UNIVERSITY RETIREMENT PLAN (CURP)

# MOSERS Board Rules

## 7-1 General Provisions

*PURPOSE: This rule implements the provisions of Sections 104.1200 to 104.1210, RSMo.*

1. An outside employee must work in a position normally requiring at least 1,040 hours of work per year in order to be eligible to participate in the CURP. An outside employee works in a position that requires such employee to:
  - a. Teach either at least 12 credit hours per semester or at least 24 hours per academic year (or the equivalent number of hours considered for full time employment status by the institution); or
  - b. Perform research and/or teach in a position normally requiring at least 1,040 hours of work per academic year shall be presumed to be in a position that is eligible to participate in the CURP. An “academic administrator holding faculty rank” means an employee who is qualified to teach or perform research but whose primary duty is to act as an administrator rather than teach. An academic administrator who works in a position normally requiring at least 1,040 hours of work per year shall be eligible to participate in the CURP. A coach in an athletic department shall not be considered an outside employee eligible to participate in the CURP unless the coach’s primary duties involve teaching or research.
2. College and universities shall determine if an outside employee is in a CURP eligible position at the time the outside employee is hired. If an outside employee is determined to be in a CURP eligible position, the college or university shall immediately notify the third party administrator of the CURP that the new outside employee is eligible to participate in the CURP under procedures established by the third party administrator. If a position that is CURP eligible is changed such that it is no longer CURP eligible, the college or university shall immediately notify the third party administrator and the outside employee.
3. “Payroll” as described in Section 104.1205 (5), RSMo, shall include all salary and wages payable to an outside employee for personal services performed for one of the institutions including compensation that is not currently includable in an employee’s gross pay because of the application of Internal Revenue Code Sections 125, 134(f), 401(k), 403(b), or 457; but excluding:
  - a. Any amounts paid after such employee's employment is terminated, unless the payment is made as a final installment of salary or wages at the same rate as in effect immediately prior to termination of employment,
  - b. Any amounts paid upon termination of employment for unused annual leave or unused sick leave,
  - c. Pay in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986 as amended and other applicable federal laws or regulations; and



# MOSERS Board Rules

- d. Any nonrecurring single sum payments.
  
- 4. Effective January 1, 2021, an outside employee who does not elect a transfer into the system's defined benefit plan pursuant to Section 104.1215, RSMo., but subsequently becomes employed in a position covered by the system's defined benefit plan shall become a member of the 2011 tier of the year 2000 plan and subject to the provisions of Section 104.1091, RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 20, 2002. Amended: Oct. 27, 2002; Oct. 27, 2003. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## **7-2 Transfer of CURP Membership**

*PURPOSE: This rule implements the provisions of Section 104.1215, RSMo.*

1. The election to transfer membership from CURP to the system's defined benefit plan shall become effective the first day of the month following the outside employees end date in the CURP, as stated on the election form provided to the system.
2. Effective January 1, 2021, an outside employee who elects to transfer from CURP to the system's defined benefit plan pursuant to Section 104.1215, RSMo., shall become a member of the 2011 tier of the year 2000 plan and subject to the provisions of Section 104.1091, RSMo. The employee shall be considered to have met the service requirements contained in Section 104.1091.12, RSMo.
3. An outside employee who elects to become a member of the system pursuant to Section 104.1215, RSMo, shall be eligible to receive credited service for unused sick leave accrued while employed as an outside employee subject to the provisions of Section 104.1021.2, RSMo.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Nov. 15, 2007. Amended: Dec. 21, 2020.*

# MOSERS Board Rules

## CHAPTER 8 TAX CODE PROCEDURES

# MOSERS Board Rules

## 8-1 Excess Benefit Arrangement

*PURPOSE: This rule sets forth the procedures for complying with Section 415 of the Internal Revenue Code.*

The Excess Benefit Arrangement of the Missouri State Employees' Retirement System (Arrangement) is adopted effective July 19, 2008. The Arrangement is established and maintained by the MOSERS solely for the purpose of providing benefits for certain of its participants who participate in MOSERS in excess of the limitations on benefits imposed by Section 415 of the Internal Revenue Code.

The Arrangement is adopted pursuant to the authority granted to MOSERS by Sections 104.010 and 104.1003, RSMo.

This Arrangement is a portion of a governmental plan (as that term is defined in Section 414(d) of the Internal Revenue Code of 1986, as amended, and Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended) and is administered as a qualified governmental excess benefit plan pursuant to the provisions of Internal Revenue Code Section 415(m).

MOSERS hereby adopts the Arrangement pursuant to the terms and provisions set forth below:

### 1. Definitions and Construction:

- a. "Board" means the board of trustees of MOSERS.
- b. "Code" or "IRC" means the Internal Revenue Code of 1986, as amended from time to time, and any regulations relating thereto.
- c. "Employer" means an employer as defined at Section 104.010, RSMo.
- d. "Annuity Starting Date" means the annuity starting date of the annuity payment period set forth in Chapters 104, 287, and 476 RSMo.
- e. "Participant" means a retiree as defined in Sections 104.010 and 104.1004, RSMo, a retired administrative law judge or legal advisor under Chapter 287, RSMo, or a retired judge under Chapter 476, RSMo.
- f. "Arrangement" means the Excess Benefit Arrangement of the Missouri State Employees' Retirement System.
- g. "Qualified Plan" means retirement plans administered by MOSERS under Chapters 104, 287, and 476, RSMo.
- h. "Qualified Plan Retirement Benefit" means the benefit payable to a Participant pursuant to the applicable Qualified Plan.
- i. "Qualified Plan Beneficiary Benefit" means the benefit payable to the Beneficiary of a Participant pursuant to the applicable Qualified Plan.

# MOSERS Board Rules

- j. "Excess Retirement Benefit" means the benefit payable to a Participant pursuant to the Arrangement by reason of termination of employment with any Employer for any reason other than death.
- k. "Beneficiary" means a person named as surviving spouse or beneficiary under an annuity payable under Chapter 104, 287, and 476, RSMo.
- l. "Excess Beneficiary Benefit" means the benefit payable to a Beneficiary pursuant to the Arrangement.
- m. "Limitation Year" means that period for which all calculations and determinations of benefits and contribution limits will be made under IRC Section 415 and this Arrangement. The "Limitation Year" shall be the calendar year.
- n. Words in the masculine gender shall include the feminine and the singular shall include the plural, and vice versa, unless qualified by the context. Any headings used herein are included for ease of reference only and are not to be construed so as to alter the terms hereof.

## 2. Eligibility.

- a. Participant who is eligible to receive a Qualified Plan Retirement Benefit, the amount of which is reduced by reason of the application of the limitations on benefits imposed by application of Section 415 of the Code, as in effect on the Participant's Annuity Starting Date, or as in effect at any time thereafter, to the Qualified Plan shall be eligible to receive an Excess Retirement Benefit. The Beneficiary of a Participant described in the preceding sentence shall be eligible to receive an Excess Beneficiary Benefit.

## 3. Excess Retirement Benefit.

- a. Amount:

The Excess Retirement Benefit payable to an eligible Participant shall be a monthly amount equal to the difference between subparagraphs (i) and (ii) below.

- i. The monthly amount of the Qualified Plan Retirement Benefit to which the Participant would have been entitled under the Qualified Plan if such Benefit were computed without giving effect to the limitations on benefits imposed by application of Section 415 of the Code to plans to which that Section applies; LESS
- ii. The monthly amount of the Qualified Plan Retirement Benefit actually payable to the Participant under the Qualified Plan.

The amounts described in subparagraphs (i) and (ii) above shall be computed annually, based upon payments during the limitation year.

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b. Form of Benefit:

The Excess Retirement Benefit payable to a Participant shall be paid in the same form under which the Qualified Plan Retirement Benefit is payable to the Participant. The Participant's election under the Qualified Retirement Benefit (with the valid consent of the Participant's Spouse where required under the Qualified Plan) shall also be applicable to the payment of the Excess Retirement Benefit.

c. Commencement of Benefit:

Payment of the Excess Retirement Benefit to a Participant shall commence on the same date as payment of the Qualified Plan Retirement Benefit to the Participant commences. Any election under the Qualified Plan made by the Participant with respect to the commencement of payment of the Qualified Plan Retirement Benefit shall also be applicable with respect to the commencement of payment of the Excess Retirement Benefit.

4. Excess Beneficiary Benefit.

a. Amount:

If a Participant dies under circumstances in which a Qualified Plan Beneficiary Benefit is payable, then an Excess Beneficiary Benefit is payable to the Beneficiary as hereinafter provided. The monthly amount of the Excess Beneficiary Benefit payable to a Beneficiary shall be equal to the difference between subparagraphs (i) and (ii) below.

- i. The monthly amount of the Qualified Plan Beneficiary Benefit to which the Beneficiary would have been entitled under the Qualified Plan if such Benefit were computed without giving effect to the limitations on benefits imposed by application of Section 415 of the Code to plans to which that Section applies; LESS
- ii. The monthly amount of the Qualified Plan Beneficiary Benefit actually payable to the Beneficiary under the Qualified Plan.

b. Form and Commencement of Benefit:

An Excess Beneficiary Benefit shall commence and be payable in the same time and form of payment as the Qualified Plan Beneficiary Benefit is paid.

5. Administration of the Arrangement.

a. Administration by MOSERS:

MOSERS shall be responsible for the general operation and administration of the Arrangement and for carrying out the provisions thereof. MOSERS shall have the authority to interpret this Arrangement and to issue such policies with respect to this Arrangement as it deems appropriate. MOSERS shall have the duty and responsibility to maintain records and to make calculations and determinations of benefits hereunder. MOSERS

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regulations, interpretations, determinations, and calculations shall be final and binding upon all persons and parties concerned.

b. General Powers of Administration:

All provisions set forth in the Qualified Plan with respect to the administrative powers and duties of MOSERS, expenses of administration, and procedures for filing claims shall also be applicable with respect to the Arrangement. MOSERS shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions, and reports furnished by any actuary, accountant, controller, counsel, or other person employed or engaged by MOSERS with respect to the Arrangement.

6. Amendment or Termination:

a. Amendment or Termination.

MOSERS reserves the right to amend or terminate the Arrangement when, in the sole opinion of MOSERS, such amendment or termination is advisable. Any such amendment or termination shall be made pursuant to a resolution of the board and shall be effective as of the date set forth in the resolution.

b. Effect of Amendment or Termination.

No amendment or termination of the Arrangement shall directly or indirectly deprive any current or former Participant or Beneficiary of all or any portion of any Excess Retirement Benefit or Excess Beneficiary Benefit payment that has commenced prior to the effective date of such amendment or termination or any Participant's accrued benefit hereunder, on such effective date.

7. General Provisions.

a. Funding:

The Arrangement at all times shall be entirely unfunded and no provision shall at any time be made with respect to segregating any assets of MOSERS, of the state of Missouri, or of any Employer for payment of any benefits hereunder. No Participant, Beneficiary, or any other person shall have any interest in any assets of MOSERS, the state, or of any Employer by reason of the right to receive a benefit under the Arrangement.

b. General Conditions:

Except as otherwise expressly provided herein, all terms and conditions of the Qualified Plan applicable to a Qualified Plan Retirement Benefit or a Qualified Plan Beneficiary Benefit shall also be applicable to an Excess Retirement Benefit or an Excess Beneficiary Benefit payable hereunder. Any Qualified Plan Retirement Benefit or Qualified Plan Beneficiary Benefit, or any other benefit payable under the Qualified Plan, shall be paid solely in accordance with the terms and conditions of the Qualified

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Plan and nothing in this Arrangement shall operate or be construed in any way to modify, amend, or affect the terms and provisions of the Qualified Plan.

c. No Enlargement of Employee Rights:

No Participant or Surviving Spouse shall have any right to a benefit under the Arrangement except in accordance with the terms of the Arrangement. Establishment of the Arrangement shall not be construed to give any Participant the right to be retained in the service of any Employer.

d. Applicable Law:

The Arrangement shall be construed and administered under the laws of the state of Missouri and Section 415(m) of the Code.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 19, 2008.  
Amended: Dec. 21, 2020.*



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## 8-2 Compliance with Internal Revenue Code and Regulations

*PURPOSE: This rule sets forth the procedures for complying with applicable provisions of the Internal Revenue Code. Unless the context clearly indicates otherwise, this rule applies to all plans administered by MOSERS.*

1. Sections 104.010 and 104.1003, RSMo. require that benefits paid by the system not exceed the limitations of Internal Revenue Code Section 415.

In no event shall the annual benefit under this Plan maintained by the Employer exceed the amount specified in Code Section 415(b)(1)(A), as adjusted for any applicable increases in the cost of living in accordance with Code Section 415(d), as in effect on the last day of the Plan Year. Notwithstanding anything to the contrary in this board rule, the annual benefit, when paid in the form of a joint and survivor annuity, can be as great as that of a single life annuity for the member, not in excess of the limitations contained in the first sentence of this board rule, plus a survivor annuity at the same level for the member's spouse.

Code Section 415 is hereby incorporated by reference; provided that the repeal of Code Section 415(e), which is effective for limitation years beginning on or after July 1, 2000, shall apply only to a member whose accrued benefit increases on or after July 1, 2000. The reduced limitation for early retirement benefits shall be determined in accordance with applicable regulations using the actuarial assumptions prescribed in the Plan, except as otherwise required by Section 415(b)(2)(E) of the Code. The reduced limitation for early retirement benefits and the adjustment for any form of benefit subject to Section 417(e)(3) of the Code shall be determined in accordance with applicable regulations using the actuarial assumptions prescribed in the Plan, except as otherwise required by Section 415(b)(2)(E) of the Code. With respect to Plan Years beginning on or after July 1, 2008, the mortality table used shall be the applicable mortality table (within the meaning of Code Section 417(e)(3)(B)).

To the extent permitted by Treas. Reg. §1.415(b)-1(c)(5), no adjustment shall be required to a benefit that is paid in a form that is not a straight life annuity to take into account the inclusion of an automatic benefit increase feature in such form of benefit. In no event will the amount payable in any limitation year to a member under a form of benefit with an automatic benefit increase feature be greater than the Code Section 415(b) limit applicable at the annuity starting date, as increased in subsequent years pursuant to Section 415(d) of the Code and Treas. Reg. §1.415(d)-1. In the case of a member who received any portion of his or her benefit in the form of payment that is subject to Code Section 417(e)(3), the exception provided for in this paragraph shall not apply to his or her entire benefit.

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Reduction of benefits or contributions to all plans, where required to comply with this board rule, shall be accomplished by reducing the member's benefit under any defined benefit plans maintained by the employer in which he or she participated, such reduction to be made first with respect to the plan in which he or she most recently accrued benefits and thereafter in such priority as shall be determined by the system.

2. Sections 104.330 and 104.1021, RSMo, require that employees shall receive creditable service and salary credit mandated by federal law under the Uniformed Services Employment and Reemployment Rights Act.

Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. If a member dies while performing qualified military service on or after January 1, 2007, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the member had resumed employment and then experienced a termination of employment on account of death. For years beginning after December 31, 2008: (a) an individual performing service in the uniformed services (as described in Section 3401(h)(2)(A) of the Code) for a period of more than 30 days receiving a differential wage payment from an employer shall be treated as an employee of such employer; and (b) the differential wage payment (as described in Section 3401(h)(2) of the Code) shall be treated as compensation.

3. Sections 104.401, 104.415, and 104.1048, RSMo, require that the system comply with minimum distribution requirements in Section 401(a)(9) of the Internal Revenue Code. The system shall comply with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code.
  - a. Notwithstanding any Plan provision to the contrary, the requirements of this Rule 8-2(3) shall apply to all distributions of a member's interest. All distributions under the Plan shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, including the incidental benefit rules under Section 401(a)(9)(G).
  - b. A member's benefit shall be distributed, or begin to be distributed, to the member beginning no later than April 1 of the calendar year following the later of (i) the calendar year in which the member reaches the applicable age, or (ii) the calendar year in which the member retires.
  - c. No payment option may be selected by a member unless the amounts payable to the member are expected to be at least equal to the minimum distribution required under Section 401(a)(9) of the Code.
  - d. Death of a member. For purposes of this Rule 8-2(3), "designated

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beneficiary" shall mean any individual designated as a beneficiary by the member within the meaning of Section 401(a)(9)(E)(i) of the Code and Treasury Regulation 1.401(a)(9)-4.

- i. If a member dies before distributions begin, the member's benefit will be distributed, or begin to be distributed, no later than as follows:
    - A. If the designated beneficiary is not the member's surviving spouse, distributions after the member's death must either (1) begin to be distributed no later than December 31 of the calendar year immediately following the year of the member's death, payable over a period not to exceed the beneficiary's life expectancy; or (2) be distributed no later than December 31 of the calendar year containing the fifth anniversary of the member's death.
    - B. If the designated beneficiary is the member's surviving spouse, distributions after the member's death must begin to be distributed no later than December 31 of the calendar year following the later of (i) the calendar year of the member's death or (ii) unless the surviving spouse elects to be treated as the member, the calendar year in which the deceased member would have attained the applicable age. Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy.
    - C. If there is no designated beneficiary, the member's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
  - ii. If required minimum distributions under Section 401(a)(9) of the Code have begun prior to the member's death, the remaining portion of the member's benefit shall be distributed to the beneficiary at least as rapidly as under the method of distribution in effect prior to the member's death.
4. Section 104.605, RSMo, allows the system to make certain rollover distributions in compliance with the Internal Revenue Code and regulations.
    - a. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this paragraph 4, a distributee may elect, at the time and in the manner prescribed by the system, to have any portion of an eligible rollover distribution paid

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directly to an eligible retirement plan specified by the distributee in a direct rollover.

## b. Definitions

- i. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.
- ii. An eligible rollover distribution is, as defined in Section 402(f)(2)(A) of the Code, any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, any hardship distribution and the portion of any distribution that is not includible in gross income. However, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income; provided, that such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, respectively, or effective January 1, 2007, to a qualified trust described in Sections 401(a) or 403(a) of the Code or to an annuity contract described in Section 403(b) of the Code, and such trust or annuity contract agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible, or to a Roth IRA described in Section 408A of the Code.
- iii. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a Roth IRA described in Section 408A(b) of the Code (effective for distributions after December 31, 2007), an annuity plan described in Section 403(a) of the Code, or a qualified plan described in Section 401(a) of the Code, that accepts the

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distributee's eligible rollover distribution. An eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible deferred compensation plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and a simple retirement account described in Section 408(p)(1) of the Code following the two-year period described in Section 72(t)(6) of the Code.

Effective for distributions to a non-spouse beneficiary after December 31, 2009, an eligible retirement plan shall mean only an individual retirement account or individual retirement annuity described in Section 408 (a) and (b) of the Code, respectively, to the extent consistent with the provisions of Section 402(c)(11) of the Code.

5. Sections 104.320 and 104.1006, RSMo, provide the board authority to administer the system including making investments of system assets. Sections 105.915, RSMo, and 105.927 provide the board authority to designate the investments available under the plans established pursuant to Sections 105.900 to 105.927, RSMo, (the State of Missouri Deferred Compensation 457(b) Plan for Public Employees and the State of Missouri Deferred Compensation Incentive 401(a) Plan for Public Employees, hereinafter the "Deferred Compensation Plans"). Section 105.915, RSMo, provides that the assets of the Deferred Compensation Plans may be pooled solely for investment management purposes with assets of the trust established by the board's authority under Section 104.320, RSMo, For these purposes, assets of the system may be commingled with the assets of the Deferred Compensation Plans in any collective investment fund, including common and group trust funds that consist exclusively of assets of exempt pension and profit sharing trusts and individual retirement accounts, custodial accounts, retirement income accounts, governmental plans and tax-exempt trusts under the Internal Revenue Code of 1986 and Rev. Rul. 81-100, as modified by Rev. Ruls. 2004-67, 2008-40 and 2011-1. The assets so invested shall be subject to all the provisions of the instruments establishing and governing such funds. Those instruments of group trusts, including any subsequent amendments, are hereby incorporated by reference and made a part of the closed plan, MSEP 2000 plan, or (inclusively) each of the Deferred Compensation Plans, as applicable, to the extent of the system's investment therein.
6. The provisions of this board rule will apply to the closed plan and the MSEP 2000 plan. The provisions of paragraph 5 of this board rule will also apply to the Deferred Compensation Plans.

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*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective April 23, 2010. Amended: July 17, 2011; July 25, 2015; Feb. 21, 2020. Amended: Dec. 21, 2020; Feb. 17, 2023.*

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## 8-3 Master Trust Declaration for the Missouri State Employees Retirement System

*PURPOSE: This rule establishes the Missouri State Retiree Group Trust as authorized in Sections 104.320 and 105.915, RSMo.*

### RECITALS

1. The Board of Trustees (the “Board”) of the Missouri State Employees’ Retirement System (“MOSERS”) is a body corporate and instrumentality of the State of Missouri (the “State”) created under and governed by § 104.010 and §§ 104.320 through 104.1093, 287.812 to 287.856, and 476.445 to 476.690 of the Revised Statutes of Missouri (2000), as amended (“RSMO”). Pursuant to RSMO §§ 105.900 to 105.927, the Board serves as trustee and plan administrator of the State of Missouri Deferred Compensation 457(b) Plan for Public Employees and the State of Missouri Deferred Compensation Incentive 401(a) Plan for Public Employees.
2. The instrumentalities of the State listed in Appendix A maintain certain pension benefit plans (the “Plans”) and the State and such instrumentalities may make contributions to certain welfare benefit funds (the “Welfare Funds”) for the exclusive benefit of providing benefits to certain current and future retired State employees and their beneficiaries and dependents.
3. The Board provides investment services (the “Trust Services”) under RSMO or one or more trust agreements which are intended to fund benefits for certain retirees of the State and participating member agencies of the State and to such individuals’ eligible dependents as described in Appendix B (the “Participating Trusts”).
4. The Board is authorized by RSMO § 105.915, RSMO § 104.320 and the trust agreements of the Participating Trusts to commingle the corpus of such trusts in a group or master trust for investment purposes. The Board hereby establishes the Missouri State Retiree Group Trust (the “Group Trust”) for such purpose by adoption of this declaration (the “Group Trust Declaration”).
5. The Board will act as trustee, under the terms and conditions of this Group Trust Declaration, for all money or property that may be transferred to or received by it from time to time as the trustee (the “Group Trust Funds”).

NOW, THEREFORE, pursuant to the Board’s power as trustee of the Participating Trusts, it is hereby declared as follows:

### ARTICLE I ESTABLISHMENT OF THE TRUST

Section 1.1 The Trust. This Group Trust is established, under the common law of the State of Missouri, to commingle the assets of each Participating Trust for investment purposes. It is intended to qualify as a group trust under Internal Revenue Service

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Revenue Ruling 81-100, 1981-1 C.B. 326, as amended by Rev. Ruls. 2004-67, 2008-40 and 2011-1, and any successor ruling, regulation or similar pronouncement (“Revenue Ruling 81-100”), and this Group Trust Declaration shall be construed to give effect to that intention.

Section 1.2 Group Trust Fund. The Board (hereinafter, the “Trustee”) hereby establishes a trust fund consisting of such monies or other property as shall from time to time be transferred to the Trustee by the trustee of a Participating Trust (the monies and other property so received and accepted by the Trustee, together with the proceeds and reinvestments thereof, the income therefrom and any other increment thereto shall be hereinafter referred to as the “Group Trust Fund”). The Trustee shall accept deposits into the Group Trust Fund only from trusts which meet the requirements of Revenue Ruling 81-100.

Such Participating Trusts shall consist exclusively of trust assets held under plans qualified under Internal Revenue Code of 1986, as amended (the “Code”) § 401(a) that are exempt under Code § 501(a); funds from Code § 401(a)(24) governmental retiree benefit plans that are not subject to Federal income taxation; funds from individual retirement accounts that are exempt under Code § 408(e); and funds from eligible governmental plan trusts or custodial accounts under Code § 457(b) that are exempt under Code § 457(g). For this purpose, a trust includes a custodial account that is treated as a trust under Code § 401(f), Code § 408(h), or Code § 457(g)(3).

The Trustee shall hold, invest, reinvest and disburse the Group Trust Fund in the manner provided herein.

Section 1.3 Situs of Trust. The Trust will be located and administered in the State of Missouri at the office of the Trustee. The Trust may have one or more managers or employees within or without the State of Missouri.

Section 1.4 Title to Trust Property. The Trustee shall have legal title to the assets of the Group Trust and no Participating Trust shall be deemed to have individual ownership interest of any asset. Instead, each Participating Trust shall have an undivided ownership interest in the Group Trust Funds and shall share proportionately with all other Participating Trusts in the net income, profits, and losses thereof.

## **ARTICLE II TRUSTEE**

Section 2.1 Trustee Responsibility. The Trustee shall be the custodian of the Group Trust Fund and shall hold, administer, collect the income of, and make payments from the Group Trust Fund, all as hereinafter provided. Subject to the conditions and limitations set forth herein, the Trustee shall be responsible only for the property actually received by it hereunder, and the Trustee shall not be responsible for the administration or interpretation of any Plan or Welfare Fund solely by reason of this Group Trust Declaration (including, without limitation, the determination of participation rights of any person and the determination of benefits or rights of any person having or claiming any interest in or benefit under the Group Trust Fund or any Plan or Welfare Fund) or for



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those assets of any Plan or Welfare Fund that have not been delivered to and accepted by the Trustee. The Trustee shall be under no duty or obligation, and shall have no right, to determine the adequacy of or to compute any amount to be paid to it pursuant to a Plan or Welfare Fund document, or to enforce the collection of any sums from a Participating Trust solely by reason of this Group Trust Declaration.

Section 2.2 Exclusive Benefit and Prohibited Assignment. At no time shall any part of the Group Trust Fund be used for, or diverted to, any purpose other than for the exclusive purpose of providing benefits to participants and beneficiaries of the Participating Trusts (collectively, the “Eligible Participants”), including providing such benefits through the funding of the benefits payable to such Eligible Participants and by the payment of reasonable expenses of each respective Participating Trust. At no time shall any part of the Group Trust Fund that equitably belongs to any Participating Trust be used for, or diverted to, any purpose other than for the exclusive benefit of the Eligible Participants of the Participating Trust. At no time may any Participating Trust assign any portion of its equity or interest in the Group Trust Fund.

Section 2.3 Disbursement of the Group Trust Fund. Consistent with Section 2.2, the Trustee shall make such payments from the Group Trust Fund to and/or for the benefit of the Eligible Participants, only at such times, in such manner, in such amounts, in such form and for such purposes as may be specified in one or more Directions (where a “Direction” is defined as an instruction from the respective trustee of a Participating Trust) from time to time, and shall have no responsibility and shall be without liability for any payment made pursuant to any such Direction. The Trustee shall be under no duty or obligation under this Group Trust Declaration to make any inquiry or investigation as to whether any Direction is made pursuant to the provisions of any Plan or Welfare Fund or Section 2.2. Any Direction shall be deemed to include a certification that any payment directed thereby is one which such person is authorized to direct, and the Trustee may conclusively rely on such certification without further inquiry. Payment in response to such Direction shall be a complete discharge of the Trustee of its responsibility for the holding and safe-keeping of such assets and any assets so paid over shall no longer constitute part of the Group Trust Fund.

Section 2.4 Powers and Duties of Trustee. The Trustee shall have only those powers, rights, duties and responsibilities expressly set forth in this Group Trust Declaration (determined without regard to any Plan or Welfare Fund), which hereby incorporates by reference those powers and duties described in RSMO § 104.010 and §§ 104.320 to 104.1093. Without limiting the preceding sentence, and except to the extent inconsistent with a more specific provision herein, the Trustee shall have the following powers:

- (a) To collect and receive the income of the Group Trust Fund;
- (b) To purchase, sell, convey, exchange, convert, transfer, divide, grant options or otherwise acquire for or dispose of any property at any time held in the Group Trust Fund, at public or private sale and for cash or on credit, with or without security;
- (c) To hold uninvested any cash of the Group Trust Fund and to create reserves of cash or other assets of the Group Trust Fund, without liability for interest thereon, for the

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payment of expenses, or for distributions pursuant to a Plan or Welfare Fund document, or for any other purpose in connection with a Plan or Welfare Fund;

(d) To vote, give general or special proxies or powers of attorney, with or without power of substitution, or refrain from voting, in respect of any securities, enter into any voting trust or similar agreement, exercise any exchange or conversion privileges or other options, and oppose or consent to or otherwise participate in foreclosures, reorganizations, recapitalizations, consolidations, mergers, liquidations and similar transactions with respect to such securities;

(e) To exercise or sell rights of subscription or other rights received in respect of any securities;

(f) To pay the expenses of the Trust out of the Group Trust Fund, including, without limitation, reasonable expenses and compensation for agents, attorneys, custodians, trustees, sub-trustees and other persons whose services may be required in connection with the administration of the Group Trust Fund from time to time;

(g) To borrow money from anyone (including the Trustee) for any purpose, and to secure the same by pledge of the Group Trust Fund, or any assets constituting a part thereof, on such terms as the Trustee may deem appropriate, and to pay and discharge any and all indebtedness of the Trust or any liens or other charges against the Group Trust Fund;

(h) To settle, compromise or submit to arbitration any claims, debts, or damages due or owing to or from the Trust or the Group Trust Fund;

(i) To commence or defend legal proceedings for or against the Trust or the Group Trust Fund and to represent the Trust and the Group Trust Fund in proceedings in any court of law or equity or before any other body or tribunal; provided, however, the Trustee will provide prior notice of any such proceeding to the trustee of the Participating Trust and that the Trustee shall have no obligation to take any such action for the benefit of the Trust or the Group Trust Fund unless it shall be first indemnified to its satisfaction for all reasonable expenses in connection therewith, including, without limitation, counsel fees;

(j) To register, or cause to be registered, any assets of the Group Trust Fund in the name of any nominee, with or without indication of the capacity in which such property is held, or to hold any property in bearer form;

(k) To appoint one or more individuals or corporations as a custodian, trustee or sub-trustee of all or any portion of the Group Trust Fund and pay from the Group Trust Fund the reasonable compensation and expenses of any custodian, trustee or subtrustee;

(l) To employ suitable accountants, brokers, consultants, legal counsel or other experts (including, without limitation, any person then providing services to a Participating Trust or a Plan or Welfare Fund) on such agency or discretionary terms as the Trustee may deem reasonable, without liability for any neglect, omission, misconduct or default of any such agent who was selected and retained with reasonable care and to pay from the Group Trust Fund the reasonable compensation and expenses of any accountants, brokers, consultants, legal counsel or other experts;

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(m) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted herein; and

(n) Generally, to do all acts and things not inconsistent with the provisions of this Group Trust Declaration that the Trustee may deem necessary or desirable for the proper administration and management of the Trust, in the same manner and to the same extent as an individual might or could do with respect to his own property.

Section 2.5 Third Parties. No person dealing with the Trustee shall be required to see to the application of any funds or other property paid or delivered to the Trustee or to inquire into the validity, expediency or propriety of any transaction with the Trustee.

## **ARTICLE III**

### **ACCOUNTS AND INVESTMENT OF GROUP TRUST FUND**

Section 3.1 Commingled Funds and Accounting. The Trustee shall consolidate all assets of the Participating Trusts in a single fund, or multiple funds, which may be commingled for investment purposes. The Trustee shall maintain a bookkeeping accounting system whereby the beneficial interest of each Participating Trust in each such fund is identifiable (the "Participating Trust Accounts"). The contributions of each Participating Trust, and the disbursements made with respect to each Participating Trust shall be credited to or charged against such Participating Trust Accounts.

The Trustee shall adjust, account for, and allocate investment transactions, valuations of assets, rates of return and expenses with respect to the Group Trust Fund as a whole and with respect to each separate Participating Trust Account, and those records shall be available at all reasonable times to the trustees of the Participating Trusts.

The separate Participating Trust Account of each Participating Trust shall reflect the contributions made with respect to such Participating Trust, the share of investment gain and loss attributable to such Participating Trust, and disbursements made with respect to such Participating Trust. The beneficial interest of each Plan or Welfare Fund in the Group Trust Funds from time to time shall be equal to the balance credited to its Participating Trust Account. The Participating Trust, the Participants and Beneficiaries of each Plan or Welfare Fund, and all other persons claiming under, through or against the Plan or Welfare Fund shall in the aggregate not have any right to or claim against any assets of the Group Trust in excess of the balance credited to the Participating Trust Account of such Participating Trust. The Trustee shall cause the separate Participating Trust Account of each Plan to be adjusted periodically to reflect the share of each of the Participating Trusts of the fair market value of the Group Trust. For purposes of valuation, the value of the interest maintained by the Group Trust Fund with respect to any Participating Trust Account shall be the fair market value of the portion of the fund held for that Participating Trust Account, determined in accordance with generally recognized valuation procedures.

The Participating Trust Account need not be invested separately or segregated on account of the maintenance of such separate account; the separate Participating Trust Accounts

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shall be maintained only as a bookkeeping entry to reflect the share of each Participating Trust participating in the Group Trust.

Section 3.2 Trustee to Manage and Direct Investment. The Trustee shall be responsible for managing and directing the investment of the Group Trust Funds, provided that the Trustee may, in its discretion, enter into a contract or contracts with one or more investment managers, including any person or entity related to the Trustee within the meaning of Code § 267 (an “Investment Manager”) for the purpose of providing the investment management services required hereunder. Subject to the investment guidelines described in Section 3.3, the Trustee shall manage the investments of the Group Trust Fund in its sole discretion, including through appointment of one or more Investment Managers.

Section 3.3 Investment Guidelines. The Trustee shall invest the Group Trust Funds in the same manner as it invests funds of the system, as required by RSMO § 104.320, or a successor statute thereto.

## **ARTICLE IV**

### **WITHDRAWAL PROCEDURES, DIRECTIONS TO TRUSTEE**

Section 4.1 Withdrawals from Group Trust. Any Participating Trust, acting through its trustee, may at all times have the right to withdraw any or all of its Participating Trust Account, provided that such right of withdrawal may be limited by the investment characteristics of the Group Trust Fund. Appropriate accounting records shall be maintained at all times as to the amount of each Participating Trust Account. Notice of withdrawal must be received by the Trustee in the form of a Direction, as described in Section 4.2. Any certificates, notices, orders, requests, instructions, direction or objections by the trustee of a Participating Trust pursuant to this Group Trust Declaration shall be satisfactorily evidenced to the Trustee by a Direction of such trustee which the Trustee believes to be genuine and which purports to have been signed by an Authorized Person of the Participating Trust. “Authorized Person” means the trustee for the Participating Trust, or such other person as the trustee of the Participating Trust may certify to the Trustee in a writing which includes the names and titles of any additional individuals who are Authorized Persons. The Trustee may assume, and shall be fully protected in so assuming, that the person or persons so identified or named to act remains unchanged until advised to the contrary. Further, the Trustee shall be under no duty to make any investigation or inquiry as to any statement contained in any writing but may accept the same as fully authorized by a person authorized to act for a Participating Trust.

Section 4.2 Directions to the Trustee. Any certificates, notices, orders, requests, instructions, directions or objections (sometimes referred to as a “Direction” or “Directions” as the context so requires) of the trustee of a Participating Trust or other persons authorized to act pursuant to this Group Trust Declaration shall be satisfactorily evidenced to the Trustee by a written statement signed by an Authorized Person (provided, however, that the Trustee may, in its sole discretion, accept oral notices, orders, requests, instructions, directions and objections subject to confirmation in writing), and the Trustee shall be fully protected for acting in accordance therewith or for failing to act in the absence thereof. Directions to the Trustee shall be sent to such

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address as the Trustee shall designate in writing from time to time and in such format as may be mutually agreed between the parties. Such communications to the Trustee shall be binding upon the Trust and the Trustee when received by the Trustee.

Notwithstanding anything to the contrary in this Group Trust Declaration, if the Trustee is also the trustee of a Participating Trust, the Trustee may act in accordance with the terms of the Participating Trust, the terms of which are hereby incorporated herein by reference, and such action may be deemed to be taken in accordance with a Direction received under this Group Trust Declaration. In addition, the Trustee shall be fully protected in acting in accordance with Directions received by it through authenticated telecommunications facilities, including without limitation, communications effected directly between electro-mechanical or electronic devices, to the same extent as if such Directions were in writing.

Section 4.3 The Group Trust Declaration. The Trustee may, in its sole discretion exercised in good faith, consult with legal counsel of its choice, with respect to the meaning or construction of this Group Trust Declaration, the proper administration of the Group Trust Fund or the Trustee's obligations and duties hereunder, and the Trustee shall be fully protected with respect to any action taken or omitted by the Trustee in good faith and in reliance upon the advice of such counsel. If a dispute shall arise as to any act to be performed by it, the Trustee may, based on advice from legal counsel, postpone performance of such act until adjudication of such dispute shall be made in a court of competent jurisdiction.

Section 4.4 Distributions on Withdrawal. Upon the withdrawal of assets from the Group Trust Funds, the Trustee shall distribute from the Funds to the Participating Trust making such withdrawal the sum specified in the applicable Direction. Such distribution will be made in cash or in kind or some combination of cash or in kind as the Trustee in its sole discretion shall determine.

## **ARTICLE V FIDUCIARY OBLIGATIONS**

Section 5.1 Standard of Care. The Trustee is a fiduciary and shall discharge its duties with respect to the Group Trust solely in the interests of the Eligible Participants and for the exclusive purpose of providing benefits to such persons and defraying the reasonable expenses of administering the Trust, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person would use in the conduct of an enterprise of like character and with like aims, all in accordance with the provisions of this Group Trust Declaration. However, notwithstanding the foregoing, the Trustee shall not be under any duty to require payment of any contributions to the Group Trust Fund or to see that any payment made to the Group Trust Fund is computed in accordance with the provisions of a Plan or Welfare Fund or policy of reimbursement or otherwise be responsible for the adequacy of the Group Trust Fund to meet and discharge any liabilities under the Plans or Welfare Funds. The duties and obligations of the Trustee as such shall be limited to those expressly imposed upon them by this Trust Declaration. Notwithstanding any reference to the Plans, Welfare Funds or provisions thereof, it is hereby expressly agreed that the Trustee is not a party to the Plans or the Welfare Funds.

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Section 5.2 Allocation of Responsibility. Except as may be otherwise provided by statute, no “fiduciary” under this Group Trust Declaration shall be liable for any alleged or actual act or failure to act on the part of another fiduciary in carrying out any fiduciary responsibility where such fiduciary responsibility is allocated to such other fiduciary by this Group Trust Declaration or pursuant to a procedure established in this Group Trust Declaration.

## **ARTICLE VI RESIGNATION AND REMOVAL**

Section 6.1 Resignation and Removal of Trustee. Any Trustee who is a member of the Board shall be deemed to have automatically resigned as a Trustee on the date he or she ceases to be a member of the Board. This provision shall be self-executing and no further act shall be necessary to effectuate such resignation.

## **ARTICLE VII EXPENSES OF FUND: COMPENSATION OF TRUSTEE**

Section 7.1 Expenses of Group Trust Fund. Except for the compensation of the Trustee as provided in Section 7.2, all other expenses properly and actually incurred by the Trustee which are expressly approved in writing by the trustee of the Participating Trust, including fees for legal and other services rendered with respect to the establishment and administration of this Group Trust, shall be allocated and paid from the Group Trust. Notwithstanding the foregoing, the Group Trust shall not be liable or responsible for the payment of fees incurred by the Trustee on account of any misfeasance, malfeasance, or nonfeasance of the Trustee on account of any act or omission in violation of this Group Trust Declaration or of any applicable law.

Section 7.2 Compensation of Trustee. The Trustee shall not be entitled to compensation for its services as Trustee of each Participating Trust Account.

## **ARTICLE VIII AMENDMENT AND TERMINATION**

Section 8.1 General Rule on Termination. Except as expressly provided in this Article VIII, the Participating Trust shall not be entitled to terminate the Trust hereunder. The bankruptcy of a Plan or Welfare Fund shall not cause the termination of the Trust.

Section 8.2 Amendment. The Trustee shall have the right at any time to amend this Group Trust Declaration. Notwithstanding anything to the contrary herein, in no event shall this Group Trust Declaration be amended or modified in any manner that would allow the Group Trust Funds to be distributed, disbursed or otherwise administered for any purpose other than those purposes identified in Section 2.2. above. The trustee(s) of the Participating Trusts will deliver to the Trustee a copy of any instrument of amendment to or termination of a Plan or Welfare Fund document and shall notify the Trustee as to any change in its duties because of such amendment. For these purposes, codification of any amendment to or termination of a Plan or Welfare Fund document in the Revised Statutes of Missouri shall be deemed notice to the Trustee.

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Section 8.3 Termination. The Trustee shall have the right to terminate the Trust at any time. If the Trust shall be terminated, the assets of the Trust must be returned to the trustee(s) of the Participating Trust(s). No Trust assets may be used for any other purpose. Notwithstanding the foregoing, the Trustee shall not be required to pay out any assets of the Group Trust Fund upon the termination of the Trust until it shall have received such Directions pursuant to Section 2.3.

## **ARTICLE IX GENERAL PROVISIONS**

Section 9.1 Assignability. Except as specifically permitted by this Group Trust Declaration, a Plan, Welfare Fund document or applicable law, no beneficial interest in the Group Trust Fund is assignable or subject to transfer, hypothecation, encumbrance, anticipation, alienation, legal process, pledge, mortgage, levy, execution, receivership, attachment or garnishment by any Eligible Participant, nor shall any interest pass to any trustee in bankruptcy or otherwise be reached or applied by any legal process for the payment of any obligation of any such person.

Section 9.2 Taxes.

(a) Except as provided in subparagraph (b) below, the Trustee and its agents and custodians shall have no responsibility or liability for any obligations now or hereafter imposed upon a Plan or Welfare Fund, the property held under this Group Trust Declaration, or the Trustee or its agents or custodians hereunder by the tax laws of the United States or any political subdivision thereof, or any foreign jurisdiction.

(b) It shall be the responsibility of a Participating Trust to notify the Trustee of any obligations imposed on such Participating Trust, the property held under this Group Trust Declaration or the Trustee or its agents or custodians by the tax law of any jurisdiction, including responsibility for withholding and other taxes, assessments or other governmental charges, certification and governmental reporting. The Trustee shall use reasonable efforts to assist the Participating Trust with respect to any claim for exemption or refund under the tax law of any jurisdiction for which the Participating Trust has provided information.

Section 9.3 Employee Rights. Neither the establishment of this Trust, nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any employee, retired employee or other person any legal or equitable right against the Trustee, any Plan or Welfare Fund, or any officer, employee or member of any thereof, except as herein expressly provided; and in no event shall the terms or conditions of employment of any employee, or the control of any Plan or Welfare Fund over the same, be modified or in any manner affected hereby.

Section 9.4 Successors and Assigns. This Group Trust Declaration shall be binding upon, and the powers granted to the Trustee, hereunder shall be exercisable by the Trustee's successors and permitted assigns.

Section 9.5 Governing Law.

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(a) This Group Trust Declaration shall be construed, enforced and administered and the validity thereof determined in accordance with the Code and the laws of the State of Missouri.

(b) The headings and subheadings in this Group Trust Declaration are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Group Trust Declaration.

(c) In resolving any conflict among provisions of this Group Trust Declaration and in resolving any other uncertainty as to the meaning or intention of any provision of this Group Trust Declaration, the interpretation that (i) causes the Trust to be exempt from tax as an instrumentality of Missouri political subdivisions, (ii) causes the Trust to comply with all applicable requirements of the Code, and (iii) causes the Trust to comply with Revenue Ruling 81-100, shall prevail over any different interpretation.

Section 9.6 Severability of Provisions. If any provision of this Group Trust Declaration is held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining provisions of this Group Trust Declaration, but shall be fully severable, and this Group Trust Declaration shall be construed and enforced as if the illegal or invalid provision had never been included herein.

Section 9.7 Gender and Number. Wherever any words are used herein in the masculine, feminine or neuter, such words shall be construed as though they were also used in another gender in all cases where they would so apply. Additionally, whenever any words are used herein in the singular or the plural form, such words shall be construed as though they were also used in another form in all cases where they would so apply.

## **Appendix A**

Missouri State Employees' Retirement System

## **Appendix B**

Missouri State Employees' Retirement System

State of Missouri Deferred Compensation 457(b) Plan for Public Employees

State of Missouri Deferred Compensation Incentive 401(a) Plan for Public Employees

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective July 17, 2011.  
Amended: Dec. 21, 2020.*



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## **8-4 Eligible compensation under Internal Revenue Code 401(a)(17)**

*PURPOSE: This rule sets forth the procedure to determine eligible compensation under Internal Revenue Code Section 401(a)(17). Unless the context clearly indicates otherwise, this rule applies to all plans administered by MOSERS.*

Background: Code Section 401(a)(17) limits the maximum amount of annual compensation which may be taken into account for contributions and benefit calculations for a member in a qualified retirement plan.

1. For purposes of Code Section 401(a)(17), eligible compensation for the limitation year will be based upon the date the compensation was earned even if not paid until the next limitation year. No compensation shall be included in more than one limitation year.
2. Code Section 401(a)(17) and the Treasury Regulations thereunder provide that if a plan determines compensation with respect to a period of time that contains fewer than twelve months, the annual compensation limit is prorated for the number of months taken into account. A member's eligible compensation cannot exceed the compensation limit established in Code Section 401(a)(17) prorated for the number of months worked in any calendar year. Any contributions received on compensation in excess of this amount will be refunded. Any compensation reduced due to Code Section 401(a)(17) limits will be spread evenly over the months worked for benefit calculation purposes.
3. As used in this rule, the term "eligible member" means a person who first became a member in the plan prior to the plan year beginning after December 31, 1995 (January 1, 1996). Pursuant to section 13212(d)(3)(A) of OBRA '93, and the regulations issued under that section, eligible members are not subject to the limits of Code Section 401(a)(17). The limits referenced above applies only to years beginning after December 31, 1995, and only to individuals who first become plan members in plan years beginning on and after January 1, 1996.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Feb. 17, 2023.*

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# MOSERS Board Rules

## **CHAPTER 9**

Rules applicable to MSEP,  
MSEP 2000, and MSEP 2011

# MOSERS Board Rules

## **9-1 Payment of Unused Compensatory Leave Time**

*PURPOSE: This rule sets for the treatment of a payment to a member for unused compensatory leave time during employment and after a member terminates employment.*

1. For purposes of Sections 104.010.1(13) and 104.1003(21), RSMo, any payment made by a department to a member of the MSEP or the MSEP 2000 for unused compensatory leave time after the member terminates employment shall be included as part of the member's "final installment of salary and wages," "compensation," and "pay," regardless of when the department makes the payment to the member. The department shall report the payment to MOSERS as retirement eligible and shall remit contributions to the system for the payment.
2. Any payment made by a department to a member of the MSEP or the MSEP 2000 for unused compensatory leave time shall be apportioned to the corresponding time periods when the member performed the services for which the member earned the unused compensatory leave time. Only the portion of the payment attributable to unused compensatory leave time earned during the member's highest 36 consecutive months of service shall be included in the member's "average compensation" under Section 104.010.1(8), RSMo, or the member's "final average pay" under Section 104.1003.1(16), RSMo. Retirement benefits will be adjusted accordingly if any unused compensatory leave paid after termination is earned during the member's highest 36 consecutive months of service.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Oct. 26, 2020.*

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## **9-2 Termination of Employment and Reemployment of MSEP/MSEP 2000/MSEP 2011 Plan Retiree**

*PURPOSE: The purpose of this rule is to set-forth procedures relative to compliance with the Internal Revenue Code and Treasury Regulations regarding retiree re-employment and in-service distributions.*

1. A member is not entitled to receive an in-service distribution from the system, except as described in Section 104.1089, RSMo.
2. An in-service distribution occurs when a member receives a distribution from the system without a bona fide termination of the member's employment. To receive retirement benefits from the system, a member must have a bona fide termination of the member's employment and satisfy the other requirements of Chapter 104.
3. For purposes of this rule, a "bona fide termination" occurs when: (i) a member has completely severed the member's employment; (ii) the member has not entered into a prearranged agreement, prior to retirement, with any employer for subsequent employment on any basis (full-time, part-time, or other); and (iii) the member is not subsequently employed by any employer on any basis (full-time, part-time, or other) within 30 days after the member's employment with the member's prior employer has ended.
4. For purposes of this rule, "employer" means the State of Missouri or any other employer covered by Chapters 104, 287, or 476, RSMo.
5. If a member receives retirement benefits without a bona fide termination, then: (a) all further benefit payments shall cease; and (b) the member shall be required to repay to the system all retirement benefits received from the system plus applicable interest based on the assumed rate of return on the date of the member's retirement. Any amounts, including interest, not repaid by the member to the system shall be subject to collection from the member's future retirement benefits. The member's retirement shall be deemed null and void and during the member's continued employment, the member shall be treated as having not retired for purposes of benefit accrual and shall be subject to all plan provisions for active members. In addition, any payment deemed to be an in-service distribution may be subject to a 10% early distribution penalty.

*AUTHORITY: Section 104.1063, RSMo Supp. 1999. Original rule effective Dec. 21, 2020.*