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**BOARD OF TRUSTEES OF THE INDIANA PUBLIC RETIREMENT SYSTEM**

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**Resolution No. 2013-4-01**

Adopting rules related to the administration of the Indiana Public Retirement System as described herein.

WHEREAS, the Board of Trustees of the Indiana Public Retirement System, by statute, administers the public pension or retirement funds listed in [IC 5-10.5-2-2](#) (collectively, "Funds");

WHEREAS, the Indiana Public Retirement System exists to manage and administer each of the Funds for the benefit of their members, survivors, and beneficiaries;

WHEREAS, the Board of Trustees, pursuant to [IC 5-10.5-4-2](#), may establish and amend rules and regulations for the administration of the Funds without adopting a rule under [IC 4-22-2](#); and

WHEREAS, the Board of Trustees of the Indiana Public Retirement System wishes to adopt, amend, and/or repeal certain rules contained or to be contained in the Indiana Administrative Code related to the administration of the Funds as described herein;

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Indiana Public Retirement System that:

SECTION 1. [35 IAC 1.2-2-1](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-2-1](#) Definitions**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3-2-1](#); [IC 5-10.3-7](#); [IC 5-10.5](#)

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

- (1) "After the member's retirement", for purposes of [IC 5-10.2-4-8\(b\)](#), means when a member separates from employment.
- (2) "Annuity savings account" or "ASA" consists of the member's contributions whether paid by the member or picked up by the employer, additional annuity contributions, and interest credits on these contributions.
- (3) "Board" means the board of trustees of the public employees' retirement fund of Indiana.
- (4) "Ceases service", for purposes of [IC 5-10.2-4-3\(e\)](#) only, means when a member stops earning creditable service.
- (5) "Contribution accounts" means accounts holding employee contributions other than those to the annuity savings account.
- (6) "De minimis account" or "de minimis amount" means an inactive, retired, retired for disability, suspended, or deceased member's ASA account whereby no regular and continuing contributions are being received and the account has a balance of which the value is less than the actual cost of making a distribution of the balance to the member or the member's beneficiary.
- (7) "De minimis overpayment" means an active, inactive, retired, retired for disability, suspended, or deceased member's ASA account which received an overpayment totaling no more than ten dollars (\$10).
- (8) "Employer" means the state for employees of the state and a participating political subdivision for its employees.
- (9) "Employer contributions" means contributions made by the state and political subdivisions to the retirement allowance account.
- (10) "ERM" means the employer reporting and maintenance system, a web-enabled software application that manages employer and member data and collects members' wages and contributions.
- (11) "Full-time employee" means an employee occupying a position covered by the fund as set out in [IC 5-10.3-7](#).
- (12) "Fund" means the public employees' retirement fund of Indiana.
- (13) "Gender and number" means the masculine gender shall include the feminine, and the singular the plural as the context may require.
- (14) "Governing body" means the county council, city council, trustees of a town, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.
- (15) "Indiana pension administration system" or "INPAS" means the defined benefit system, a software

application that manages employer and member data and calculates member retirement, disability, and survivor benefits.

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

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

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

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

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

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

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

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

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

SECTION 2. [35 IAC 1.2-3-2](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-3-2](#) Reemployment after termination of employment; suspension of membership; withdrawal of contributions**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-3-5](#); [IC 5-10.2-3-6](#); [IC 5-10.3-7-6](#)

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

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

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

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

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

(f) Pursuant to [IC 5-10.2-3-6\(b\)](#), if the member is not located or does not claim his monies, or both, within five (5) years after suspension, the monies shall be credited to the fund and the fund shall retain the monies until the member or the member's beneficiary claims them with no further interest credits or earnings after the monies are credited to the fund. *(Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-3-2](#); filed Dec 20,*

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1988, 1:00 p.m.: 12 IR 1079; readopted filed Oct 31, 2001, 2:18 p.m.: 25 IR 897; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Nov 21, 2008: [20090107-IR-035080955ONA](#); adopted Feb 19, 2010: [20100310-IR-035100124ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 3. [35 IAC 1.2-3-7](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-3-7](#) Service credit for injured employees**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2](#); [IC 5-10.3](#)

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

SECTION 4. [35 IAC 1.2-5-2](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-5-2](#) Disability benefits; eligibility**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-4-6](#); [IC 5-10.3](#)

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

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

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

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

(e) A member, including a state employee receiving state sponsored long-term disability benefits, may not receive a distribution of their ASA until the member separates from covered service or the Social Security Administration determines that the member has become disabled and the member has applied for disability benefits.

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

SECTION 5. [35 IAC 1.2-5-7](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-5-7](#) Service for disability and survivor benefits**

**Authority:** [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 7. "In service" means that the member was in an employer-employee relationship as determined by the employer within established rules of the employer. Benefits for disability shall be paid: ~~beginning with the later of:~~ (1) that point in time when such employer-employee relationship no longer exists as determined by the employer; or

(2) **the first of a month following** the onset of disability as determined by the Social Security Administration **upon receipt and processing of the application for disability by INPRS.**

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

SECTION 6. [35 IAC 1.2-5-9.1](#) IS AMENDED TO READ AS FOLLOWS:

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

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#)

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

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent permitted by Section ~~444(u)(8)~~ **414(u)(9)** of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and ~~444(u)(2)~~ **414(u)(12)** of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-9.1; adopted Nov 20, 2009: 20091209-IR-035090927ONA; adopted Apr 29, 2011: 20110511-IR-035110273ONA; adopted Apr 26, 2013: 20130508-IR-035130167ONA*)

SECTION 7. [35 IAC 1.2-5-13](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-5-13](#) Beneficiary designation**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#)

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

beneficiaries survive the member, the beneficiary shall be the member's estate. In lieu of a named individual, a member may designate a trust, estate, or other legal entity.

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

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

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

(e) The designated beneficiary's right to a benefit vests upon the death of the member **in the designated beneficiary on file with the fund**. A change of beneficiary designation must be made in a manner and form approved by the board and must be filed with the fund before the ~~distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary to the member's estate.~~ **time of death of the member**. A change of beneficiary designation received after the ~~distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary, to the member's estate~~ **time of death of the member** is not valid. A **written** beneficiary designation for the ASA or RSA must be witnessed by an individual other than the member's designated beneficiary. Timely electronic beneficiary designations submitted through the fund's website in a form and manner approved by the board shall be deemed to have met the requirements of this rule. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 1.2-5-13; filed Dec 20, 1988, 1:00 p.m.: 12 IR 1083; readopted filed Dec 2, 2001, 12:35 p.m.: 25 IR 1266; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Jun 11, 2010: [20100728-IR-035100467ONA](#); adopted Apr 29, 2011: [20110511-IR-035110273ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))*

SECTION 8. [35 IAC 1.2-5-25](#) IS AMENDED TO READ AS FOLLOWS:

### [35 IAC 1.2-5-25](#) Purchase of canceled service credit in the Judges' Retirement System

**Authority:** [IC 5-10.5-4-2](#); [IC 33-38-8](#)

**Affected:** [IC 33-38-8](#)

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

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

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

- (1) The member may make periodic payments of the contributions required for the purchase of service credit. INPRS shall determine the length of the period during which the payments must be made. Such payments

will be subject to the terms and conditions of a service purchase agreement as described in the INPRS rules for PERF and TRF.

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

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

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

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

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

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

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

(c) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire contribution account to be eligible for a refund of the member's ~~rollover amount~~. **service purchase payments.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-25](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 9. [35 IAC 1.2-5-26](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 1.2-5-26](#) ASA and RSA annuity interest**

Authority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-3](#); [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-3](#); [IC 5-10.2-4](#)

**Sec. 26. After the implementation of INPAS, whenever a member elects to annuitize their ASA or their RSA, the annuitized interest rate as determined by the INPRS board and annuity factors will be applied beginning with the date of the distribution of the annuity and the annuity will be calculated prospectively from that date regardless whether the distribution was deferred under [IC 5-10.2-4-2](#)(c), there is a retroactive disability payment under [IC 5-10.2-4-6](#), or there is a retroactive benefit payment under [IC 5-10.2-4-8.2](#). The annuity interest rate that will be applied is the rate in effect as of the retirement date, the disability onset date, or the date of the election made under [IC 5-10.2-4-8.2](#). For example, Julia is a seventy-five (75) year old active member with twenty-five (25) years of creditable service. She makes an election under [IC 5-10.2-4-8.2](#) to begin receiving benefits relating back to the date she was first eligible to make the election (five (5) years ago). Julia elects to annuitize her ASA. The annuity is calculated and interest rate is the rate in effect on the date Julia makes the election. Julia will receive five (5) years of retroactive pension benefits using only twenty (20) years of service credit in the pension calculation. Because Julia's ASA account was actively earning interest, gains, or losses during the five (5) period before Julia made the election, and the ASA had not been annuitized during this period, the annuitized interest rate will be applied beginning with the actual date of distribution of the annuity.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-5-26](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 10. [35 IAC 1.2-6-12](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 1.2-6-12](#) Withdrawal of political subdivisions and charter schools**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.3-6-8](#); [IC 20-24-6-7](#)

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

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

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

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

- (3) the withdrawing participant shall provide the names of the participant's current and former employees as of the date on which the notice was provided;
- (4) no further employee or employer contributions shall be made and no further service credit shall accrue from the date of the notice;
- (5) PERF will determine the participant's liabilities as described in [IC 5-10.3-6-8](#) as of the date of the notice;
- (6) the participant shall contribute to PERF the amount necessary to pay the liability in a lump sum or amortized over a two (2) year period beginning with the notice date; and
- (7) two (2) years after the notice date provided that all the requirements of [IC 5-10.3-6-8](#) and this rule have been met, a termination date shall be set by PERF.

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

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

SECTION 11. [35 IAC 1.2-6-12.1](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 1.2-6-12.1](#) Refund of contributions following election to begin receiving benefits**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-3-2](#); [IC 5-10.2-4-8.2](#); [IC 5-10.3](#)

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

SECTION 12. [35 IAC 1.2-6-15](#) IS ADDED TO READ AS FOLLOWS:

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

**Authority:** [IC 2-3.5-3-4](#); [IC 5-10.5-4-2](#); [IC 33-38-6-23](#); [IC 33-39-7-11](#)

**Affected:** [IC 2-3.5](#); [IC 33-38](#); [IC 33-39-7](#)

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

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

**(c)** Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a

reasonably equivalent manner. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 1.2-6-15](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 13. [35 IAC 1.2-6-16](#) IS ADDED TO READ AS FOLLOWS:

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

Authority: [IC 2-3.5-3-4](#); [IC 5-10.5-4-2](#)

Affected: [IC 2-3.5-5](#)

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

SECTION 14. [35 IAC 2-2-3](#) IS ADDED TO READ AS FOLLOWS:

**[35 IAC 2-2-3](#) Actuarial assumptions**

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8](#)

Affected: [IC 36-8-8](#)

Sec. 2. Early retirement benefits are actuarially reduced to be equivalent to the normal retirement benefit. For the 1977 Fund, the reduction is 7.00% per year. The reduction is prorated based on the number of months by which the member's age in completed months at commencement precedes normal retirement age. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-2-3](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 15. [35 IAC 2-4-1](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 2-4-1](#) Death benefits**

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 29-1-8-1](#); [IC 36-8-8-16](#)

Sec. 1. The death benefits under [IC 36-8-8-16](#) for a deceased member's heirs or estate shall be paid by the 1977 Fund from the employer contributions of the city, town, or township where the member was last employed. This death benefit is payable to the member's estate and may be claimed by the estate's personal representative, as evidenced by letters testamentary or letters of administration. If no personal representative has been appointed, then the distribution can be made to a person who presents a Small Estate Affidavit, as described in [IC 29-1-8-1](#). INPRS shall not rely on a member's last will and testament to determine who receives this death benefit. If a person directs who should receive this death benefit through a last will and testament, it shall be the responsibility of the personal representative or the person entitled to receive the funds under a small estate affidavit to deliver the funds to that beneficiary. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-4-1](#); filed Aug 6, 1980, 9:20 a.m.: 3 IR 1473; filed May 7, 1998, 4:15 p.m.: 21 IR 3328; readopted filed Oct 31, 2001, 2:21 p.m.: 25 IR 898; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 16. [35 IAC 2-4-3](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 2-4-3](#) Death in service; compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART)**

Authority: [IC 5-10.5-4-2](#); [IC 36-8-8-5](#)

Affected: [IC 36-8-8-14.1](#)

Sec. 3. (a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent

required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United ~~State~~ **States** Code), to the extent permitted by Section ~~414(u)(8)~~ **414(u)(9)** of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and ~~414(u)(2)~~ **414(u)(12)** of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United ~~State~~ **States** Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 2-4-3](#); adopted Nov 20, 2009: [20091209-IR-035090927ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)*)

SECTION 17. [35 IAC 4-1-2](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 4-1-2](#) Death in service; compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART)**

**Authority:** [IC 5-10-5.5-3](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10-5.5-17](#)

Sec. 2. (a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United ~~State~~ **States** Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United ~~State~~ **States** Code), to the extent permitted by Section ~~414(u)(8)~~ **414(u)(9)** of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and ~~414(u)(2)~~ **414(u)(12)** of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United ~~State~~ **States** Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 4-1-2](#); adopted Nov 20, 2009: [20091209-IR-035090927ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)*)

SECTION 18. [35 IAC 4-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 4-3-1](#) Retirement benefits**

**Authority:** [IC 5-10-5.5-3](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10-5.5-10](#)

Sec. 1. Retirement Benefits. ~~The normal form of benefits is joint and 50% Survivor Benefit. If a fund member dies while receiving retirement benefits, the following apply:~~

- (1) A surviving mother or father nominated by the retired participant to receive survivors' benefits shall be entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the participant's monthly benefit.**
- (2) A surviving spouse nominated by the retired participant to receive survivors' benefits shall be**

entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the retired participant's monthly benefit. In the case of a surviving spouse who is more than five (5) years younger than the deceased participant at the time of the participant's death, the amount of the annual survivors' allowance shall be reduced actuarially, without regard to the sex of the spouse or the participant.

(3) A surviving child eligible and nominated by the retired participant to receive survivors' benefits shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the retired participant's monthly benefit. If more than one (1) surviving child is eligible and nominated to receive survivors' benefits, the annual allowance shall be divided equally between or among such children. In all cases, the survivors' allowance to a child shall cease when the child attains the age of eighteen (18) years or marries, whichever occurs first. Where a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children cease, the total annual allowance payable shall be divided evenly among or between the remaining children who are eligible therefore. If there are two (2) or more surviving dependent children, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependent children's attained ages, an equal dollar amount shall be determined as the monthly survivor benefit to be paid to each dependent child. Monthly survivor benefits under this subsection are payable until the date the dependent child becomes eighteen (18) years of age or dies, whichever is earlier.

(4) In the event that no nomination is made by an eligible participant, or in the event that the nominated survivor predeceases the participant and no contingent survivor is nominated and an eligible participant dies, no survivors' allowance shall be payable.

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 4-4-1](#); filed May 9, 1979, 11:31 a.m.: 2 IR 681; readopted filed Oct 31, 2001, 2:21 p.m.: 25 IR 898; adopted Nov 9, 2007: [20071205-IR-035070818ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 19. [35 IAC 4-4-3](#) IS ADDED TO READ AS FOLLOWS:

### **[35 IAC 4-4-3](#) Actuarial assumptions**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10-5.5-22](#)

Sec. 3. In the case of a surviving spouse who is more than five (5) years younger than the deceased participant at the time of the participant's death, the amount of the annual survivor allowance shall be reduced by a factor equal to 0.03% (0.0003), multiplied by the number of months in excess of sixty (60) months, that the surviving spouse is younger than the deceased participant at the time of the participant's death. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 4-4-3](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 20. [35 IAC 14-1-13](#) IS AMENDED TO READ AS FOLLOWS:

### **[35 IAC 14-1-13](#) "In service", "active service", or "serve" defined**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10-8-7](#); [IC 5-10.2-3-1](#); [IC 5-10.2-3-7.5](#); [IC 5-10.4-4-2](#)

Sec. 13. (a) "In service" or "active service" refers to active teaching or employment in any of the positions covered in [IC 5-10.4-4-1](#), or approved leave from active service where a member is entitled to service credit while still under contract, employed, or while receiving state disability benefits.

(b) For purposes of the determination of service credit under [IC 5-10.4-4-2](#), "in service", "active service", or "serve" means physically performing covered employment duties in any one (1) day or fraction thereof. **The terms also include service by a member who is a state employee and who is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under [IC 5-10-8-7](#).**

(Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-1-13](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 703; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-1-5](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-1-13](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 21. [35 IAC 14-2-17](#) IS ADDED TO READ AS FOLLOWS:

**35 IAC 14-2-17** ASA and RSA annuity interestAuthority: [IC 5-10.2-2-1](#); [IC 5-10.2-2-3](#); [IC 5-10.5-4-2](#)Affected: [IC 5-10.2-3](#); [IC 5-10.2-4](#)

Sec. 17. After the implementation of INPAS, whenever a member elects to annuitize their ASA or their RSA, the annuitized interest rate as determined by the INPRS board and annuity factors will be applied beginning with the date of the distribution of the annuity and the annuity will be calculated prospectively from that date regardless whether the distribution was deferred under [IC 5-10.2-4-2\(c\)](#), there is a retroactive disability payment under [IC 5-10.2-4-6](#), or there is a retroactive benefit payment under [IC 5-10.2-4-8.2](#). The annuity interest rate that will be applied is the rate in effect as of the retirement date, the disability onset date, or the date of the election made under [IC 5-10.2-4-8.2](#). For example, Julia is a seventy-five (75) year old active member with twenty-five (25) years of creditable service. She makes an election under [IC 5-10.2-4-8.2](#) to begin receiving benefits relating back to the date she was first eligible to make the election (five (5) years ago). Julia elects to annuitize her ASA. The annuity is calculated and the interest rate is the rate in effect on the date Julia makes the election. Julia will receive five (5) years of retroactive pension benefits using only twenty (20) years of service credit in the pension calculation. Because Julia's ASA account was actively earning interest, gains, or losses during the five (5) period before Julia made the election, and the ASA had not been annuitized during this period, the annuitized interest rate will be applied beginning with the actual date of distribution of the annuity. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-2-17](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 22. [35 IAC 14-3-2](#) IS AMENDED TO READ AS FOLLOWS:**35 IAC 14-3-2** Membership following the withdrawal of contributionsAuthority: [IC 5-10.5-4-2](#)Affected: [IC 5-10.2-3-6.5](#); [IC 5-10.4-4-13](#)

Sec. 2. (a) Except as provided under [IC 5-10.2-3-6.5](#), a member is not entitled to receive benefits after membership is suspended and the amount held in the annuity savings account withdrawn unless the member returns to covered employment in Indiana and remains employed for **long enough to earn** at least one-half (1/2) year of **service credit**. However, if member shows to the satisfaction of the fund that there was **bona fide intent to return to employment and comply with this rule and the employee was capable of performing such employment, but was prevented from working for the requisite period due to illness, injury, or death of the employee which occurred subsequent to the date of the reemployment, then such reemployment period requirement shall be waived**. Time spent on an employer approved leave of absence granted under the Family Medical Leave Act (FMLA) or pursuant to a leave granted under [IC 5-10.4](#) taken during the reemployment period shall be used in determining whether the person met the requirements of this section provided that the member returned to covered employment immediately after termination of such leave.

(b) Should the fund become aware that a member has reemployed in a covered position within thirty (30) days after having requested the withdrawal and if no withdrawal distribution has been made, the fund will not make the withdrawal distribution and the suspension of membership shall be automatically deferred and the member shall not be eligible for such refund. The member shall notify the fund immediately upon accepting such employment. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-3-2](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 706; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#); adopted Dec 17, 2010: [20101229-IR-550100778ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-3-2](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-3-2](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 23. [35 IAC 14-3-9](#) IS ADDED TO READ AS FOLLOWS:**35 IAC 14-3-9** Refund of contributions following election to begin receiving benefitsAuthority: [IC 5-10.5-4-2](#)Affected: [IC 5-10.2-3-2](#); [IC 5-10.2-4-8.2](#); [IC 5-10.4](#)

Sec. 9. A member who makes an election to continue making contributions under [IC 5-10.2-3-2](#) after making an election to begin or continue receiving retirement benefits under [IC 5-10.2-4-8.2](#) may not withdraw such contributions and earnings until the member has separated from covered service. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-3-9](#); adopted Apr 26, 2013:

SECTION 24. [35 IAC 14-4-4](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 14-4-4](#) Member designation of beneficiaries**

**Authority:** [IC 5-10.4](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-3-7.5](#); [IC 5-10.2-3-10](#); [IC 5-10.4-4-10](#)

Sec. 4. (a) A new member shall designate, by name, primary and secondary beneficiaries to receive the assets present in the annuity savings account equally or designated by whole percentage increments on the occasion of the member's death prior to retirement, less any disability benefits paid.

(b) A member who establishes a rollover account pursuant to [IC 5-10.2-3-10](#) may designate a beneficiary or beneficiaries separate from those designated on the member's annuity savings account under the requirements as stated herein.

(c) A member may name more than one (1) individual as primary or contingent beneficiaries of the member's annuity savings account or rollover account. Members may designate that the assets held in the account shall be divided equally or allocated by whole percentage increments to primary and contingent beneficiaries. Upon the member's death, the assets held in the account shall be divided equally among the surviving primary beneficiaries or, if none, among the surviving contingent beneficiaries, or by whole percentage increments to such beneficiaries if the member has designated percentage increments on a TRF form. Alternative beneficiary designations, such as per stirpes or by representation, will not be accepted or recognized by the fund. If a member has designated more than one (1) primary beneficiary, and one (1) or more of the primary beneficiaries predecease the member and the member does not complete a new beneficiary designation form, the remaining primary beneficiaries will receive an apportioned pro rata share based on the remaining primary beneficiaries' allocated percentages of the deceased primary beneficiary or beneficiaries portion. For example, member X designates three (3) primary beneficiaries as follows: Ann 60%, Bob 30%, and Carl 10%. Ann predeceases member X, and member X does not submit a new beneficiary designation form. Member X had \$10,000 in her annuity savings account (ASA) at the time of her death. Ann's 60% share will be divided between Bob and Carl as follows: Bob \$4,500 and Carl \$1,500. Therefore, the total amount that Bob will receive from member X's ASA is \$7,500, and the total amount that Carl will receive from member X's ASA is \$2,500.

(d) A member may name a trust, the member's estate, or other legal entity as the beneficiary of the member's annuity savings account or rollover account.

(e) The designated beneficiary's right to a benefit vests upon the death of the member **in the designated beneficiary on file with the fund**. A change of beneficiary designation must be made in a manner and form approved by the board and must be filed with the fund before ~~distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary to the member's estate.~~ **the time of death of the member**. A change of beneficiary designation received after the ~~distribution of the amounts in the member's account has been made to the designated beneficiary on file with the fund at the time of the distribution or in the case of no designated beneficiary, to the member's estate [sic]~~ **time of death of the member** is not valid. A **written** beneficiary designation for the ASA or RSA must be witnessed by an individual other than the member's designated beneficiary. Timely electronic beneficiary designations submitted through the fund's website in a form and manner approved by the board shall be deemed to have met the requirements of this rule. (*Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-4-4](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 707; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Apr 21, 2010: [20100505-IR-550100241ONA](#); adopted Nov 19, 2010: [20101208-IR-550100723ONA](#); adopted Apr 29, 2011: [20110511-IR-550110274ONA](#); adopted Feb 17, 2012: [20120222-IR-035120095ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-4-5](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-4-4](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.*

SECTION 25. [35 IAC 14-6-3](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 14-6-3](#) Death in service; compliance with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART)**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-1.5](#); [IC 5-10.2-2-1](#)

Sec. 3. (a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent required by Section 401(a)(37) of the Internal Revenue Code, survivors of a member in the retirement system are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Effective with respect to deaths or disabilities occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code), to the extent permitted by Section ~~414(u)(8)~~ **414(u)(9)** of the Internal Revenue Code, for benefit accrual purposes, the member will be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Sections 3401(h) and ~~414(u)(2)~~ **414(u)(12)** of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-6-3; adopted Dec 16, 2009: 20100106-IR-550090990ONA; errata filed Jan 19, 2010, 12:48 p.m.: 20100203-IR-550100043ACA; adopted Apr 26, 2013: 20130508-IR-035130167ONA*) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-6-3.5](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-6-3](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 26. [35 IAC 14-7-10](#) IS AMENDED TO READ AS FOLLOWS:

### **[35 IAC 14-7-10](#) Employer payments**

**Authority:** [IC 5-10.2-2-1](#); [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-3-2](#); [IC 5-10.2-4-2](#); [IC 5-10.4-7-6](#); [IC 5-10.4-7-8](#)

Sec. 10. (a) In accordance with and pursuant to [IC 5-10.4-7](#), not later than January 15, April 15, July 15, and October 15 of each year, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by TRF shall make payments to TRF and make a report to TRF in a form and manner as described by TRF. Amendatory reports to correct errors or omissions may be required and made.

(b) Notwithstanding subsection (a), as allowed in [IC 5-10.4-7-6](#), once TRF gives reasonable notice to covered employers and after installation of the ERM system, the due date for contributions is seven (7) days after a covered employer's payroll.

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

(d) Any payments not made on the due date may at TRF's discretion accrue interest at a rate equal to the rate established in section **9 11** of this rule.

(e) Any employer who fails to submit required contributions and reports within thirty (30) days of the due date will be subject to a penalty as set forth in [IC 5-10.4-7-8](#). If the thirtieth day following the due date falls on a Saturday, Sunday, or a legal holiday, the due date becomes the next working day. It shall be the responsibility of the local official to employ such method of delivery to insure that the report and payment will reach TRF on or before the due date.

(f) An employer who has elected to pick up the mandatory employee contributions of its employees must do so by resolution in accordance with [IC 5-10.2-3-2\(d\)](#). An employer who wants to rescind its election to pick up the mandatory employee contributions must do so in writing with approval of its governing body. The change will be effective the quarter following the date TRF receives and approves the change. (*Board of Trustees of the Indiana Public Retirement System; 35 IAC 14-7-10; adopted Dec 16, 2009: 20100106-IR-550090990ONA; errata filed Jan 19, 2010, 12:48 p.m.: 20100203-IR-550100043ACA; errata filed Feb 17, 2010, 12:09 p.m.: 20100310-IR-550100109ACA; adopted Apr 21, 2010: 20100505-IR-550100241ONA; adopted Nov 19, 2010: 20101208-IR-550100723ONA; adopted Sep 16, 2011: 20110928-IR-035110563ONA; adopted Apr 26, 2013:*

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[20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-7-8](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-7-10](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 27. [35 IAC 14-9-3](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 14-9-3](#) Disability retirement**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-4-6](#); [IC 5-10.4-5-1](#)

Sec. 3. (a) In order to receive disability retirement benefits, a member must have been employed under a uniform or supplemental contract, **receiving workers' compensation disability benefits, on leave pursuant to the Family Medical Leave Act**, or on a leave approved by the school board on the disability onset date as determined by the Social Security Administration.

(b) A member seeking or receiving disability retirement benefits may execute a waiver authorizing the Social Security Administration to annually release to the fund information regarding the member's eligibility to continue receiving Social Security disability insurance payments. (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-9-3](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 712; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Mar 27, 2007: [20070404-IR-550070200ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-9-2](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-9-3](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 28. [35 IAC 14-9-6](#) IS AMENDED TO READ AS FOLLOWS:

**[35 IAC 14-9-6](#) Disability benefits; benefit calculation and commencement**

**Authority:** [IC 5-10.5-4-2](#)

**Affected:** [IC 5-10.2-4-4](#)

Sec. 6. (a) Except as provided in subsection (b), a member who becomes disabled and has sufficient credit for retirement **disability benefits** is entitled to disability retirement benefits only after the member has ~~ceased making contributions and receiving credit for service.~~ **received a disability onset date as determined by the Social Security Administration and has applied for disability benefits with INPRS.** Benefits shall commence the **first of a month** after the onset date of the disability. ~~or the month after the member's last day of compensable service, whichever is later.~~

(b) The benefit is the retirement benefit specified [IC 5-10.2-4-4](#) with the ~~pension~~ **disability benefit** computed using only the years of creditable service worked to the date of disability and without reduction for early retirement.

(c) ~~Except as provided in subsection (c),~~ Members with five (5) years of creditable service, whose onset of disability is determined by the Social Security Administration to be prior to the member's five (5) years service anniversary, the benefit calculation will only include the creditable service earned prior to the onset of disability. For example, a member has four (4) years of active creditable service, becomes ill, applies for Social Security disability benefits, but continues in active service for one (1) more year. The member receives a disability onset date from the Social Security Administration that relates back to the member's fourth year service anniversary. The member is eligible for a disability benefit because the member earned five (5) years of service, but only (4) years of service is used in the benefit calculation. However, the member's disability for retirement benefits will be paid back to the month following the onset of disability as determined by the Social Security Administration.

(d) A member who is receiving a disability retirement shall be automatically converted to regular retirement benefits upon reaching age and service eligibility. **Unless otherwise prohibited by law, service credit earned or awarded during the period of time the member was receiving TRF disability benefits will be used in the calculation of the retirement benefit.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 14-9-6](#); filed Oct 5, 1992, 5:00 p.m.: 16 IR 713; readopted filed Dec 3, 2001, 11:02 a.m.: 25 IR 1731; adopted Nov 19, 2008: [20081126-IR-550080887ONA](#); adopted Dec 14, 2012: [20121226-IR-035120663ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 2-9-5](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 14-9-6](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

**35 IAC 15-1-1 Definitions****Authority:** [IC 2-3.5-3-4](#); [IC 5-10-5.5-3](#); [IC 5-10.5-4-2](#); [IC 33-38-6-23](#); [IC 33-39-7-11](#); [IC 36-8-8-5](#)**Affected:** [IC 2-3.5-3-5](#); [IC 5-10-5.5](#); [IC 5-10.2-2-14](#); [IC 5-10.2-3-10](#); [IC 5-10.3](#); [IC 5-10.4-4-12](#); [IC 5-10.5](#); [IC 33-38-6-24](#); [IC 33-39-7-24](#); [IC 36-8-8-17](#)

Sec. 1. (a) ~~For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.~~ **The definitions in this section apply throughout this article.**

(b) ~~For purposes of this section,~~ **"Board of trustees" means the board of trustees of the Indiana public retirement system (INPRS).**

(c) ~~"Direct rollover" means a payment by the plan~~ **a fund** to the eligible retirement plan specified by the distributee.

~~(e) For purposes of this section,~~ (d) **"Distributee"** means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse. Effective January 1, 2009, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Section 401(a)(9)(E) of the Internal Revenue Code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity (or, effective January 1, 2008, a Roth IRA) established for the purpose of receiving the distribution, and the account or annuity must be treated as an inherited individual retirement account or annuity.

~~(d) For purposes of this section,~~ (e) **"Eligible retirement plan"** means any of the following that accepts the distributee's eligible rollover distribution **from a fund**:

- (1) an individual retirement account described in Section 408(a) of the Internal Revenue Code;
- (2) an individual retirement annuity described in Section 408(b) of the Internal Revenue Code;
- (3) an annuity plan described in Section 403(a) of the Internal Revenue Code;
- (4) a qualified trust described in Section 401(a) of the Internal Revenue Code;
- (5) effective January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code;
- (6) effective January 1, 2002, a plan eligible under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system; or
- (7) effective January 1, 2008, a Roth IRA described in Section 408A of the Internal Revenue Code.

~~(e) For purposes of this section,~~ (f) **"Eligible rollover distribution"** means any distribution of all or any portion of the balance to the credit of the distributee, **distribute** [sic] **from a fund**, except that an eligible rollover distribution does not include the following:

- (1) any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the 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 (10) years or more;
- (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code;
- (3) the portion of any distribution that is not includible in gross income; and
- (4) any other distribution that is reasonably expected to total less than two hundred dollars (\$200) during the year.
- (5) Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:
  - (A) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code **that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;**
  - (B) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the

Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

(C) on or after January 1, 2008, to a Roth IRA described in Section 408A of the Internal Revenue Code.

(6) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse or to a spouse.

**(g) "Fund" or "funds" means the legislators' retirement system, public employees' retirement fund, state excise police, gaming agent, gaming control officer and conservation enforcement officers' retirement plan, judges' retirement fund, 1977 police officers' and firefighters' pension and disability fund, the prosecuting attorneys' retirement fund, the teachers' retirement fund, and funds funded through the pension relief fund.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 15-1-1](#); adopted Dec 16, 2009: [20100106-IR-550090990ONA](#); adopted Apr 29, 2011: [20110511-IR-550110274ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 3-3-1](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 15-1-1](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 30. [35 IAC 15-1-2](#) IS ADDED TO READ AS FOLLOWS:

### **[35 IAC 15-1-2](#) Compliance with Code Section 401(a)(31) for eligible rollover distributions**

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 5-10.2-2-14](#); [IC 5-10.2-3-10](#); [IC 5-10.5](#)

**Sec. 2. For purposes of compliance with Section 401(a)(31) of the Internal Revenue Code, this section applies notwithstanding any contrary provision that would otherwise limit a distributee's election to make a rollover. A distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution from a fund paid directly to an eligible retirement plan specified by the distributee in a direct rollover.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 15-1-3](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#))

SECTION 31. [35 IAC 18-1-1](#) IS AMENDED TO READ AS FOLLOWS:

### **[35 IAC 18-1-1](#) Definitions**

Authority: [IC 2-3.5-3-4](#); [IC 5-10-5.5-3](#); [IC 5-10.5-4-2](#); [IC 33-38-6-23](#); [IC 33-39-7-11](#); [IC 36-8-8-5](#)

Affected: [IC 2-3.5-5](#); [IC 5-10-5.5](#); [IC 5-10.2-3-10](#); [IC 5-10.3](#); [IC 5-10.4](#); [IC 5-10.5](#); [IC 33-38-6](#); [IC 33-38-7](#); [IC 33-38-8](#); [IC 36-8-8](#)

Sec. 1. (a) The definitions in this section apply throughout this article.

(b) "Board of trustees" means the board of trustees of the Indiana ~~state teachers'~~ **public retirement fund-system (INPRS).**

(c) "Code" means the Internal Revenue Code of 1986, 26 U.S.C. 1 et seq., and all amendments related thereto.

(d) "Direct rollover" means a payment from an eligible retirement plan specified by the member to ~~the a~~ fund.

~~(e) "EGTRRA" means the Economic Growth and Tax Relief Reconciliation Act of 2001, P.L.107-16, and all applicable regulations and amendments related thereto.~~

~~(f)~~ **(e)** "Eligible retirement plan" means:

(1) an individual retirement account described in Section 408(a) of the Code;

(2) an individual retirement annuity described in Section 408(b) of the Code;

(3) an annuity plan described in Section 403(a) of the Code;

(4) a qualified trust described in Section 401(a) of the Code;

(5) an eligible deferred compensation plan under Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (so long as the plan agrees to separately account for amounts rolled into the plan); or

(6) an annuity contract under Section 403(b) of the Code;

that accepts the distributee's eligible rollover distribution.

(g) (f) "Eligible rollover distribution" means any distribution of all or any taxable portion of the benefit to the credit of a member or a member's spouse, except that an eligible rollover distribution does not include the following:

- (1) Any distribution that is one (1) of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the member and the member's designated beneficiary.
- (2) Any distribution that is one (1) of a series of substantially equal periodic payments for a specified period of ten (10) years or more.
- (3) Any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.
- (4) The portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an eligible rollover distribution for purposes of a rollover to either:
  - (A) a traditional individual retirement account or individual retirement annuity; or
  - (B) a qualified trust which is part of a plan which is a defined contribution plan that will separately account for the taxable and nontaxable portions of the distribution, in a direct trustee-to-trustee transfer.
- (5) Any distribution that is made upon hardship by the member.

(h) (g) "Fund" or "funds" means the ~~Indiana state teachers' legislators' retirement fund~~ **system, public employees' retirement fund, state excise police, gaming agent, gaming control officer and conservation enforcement officers' retirement plan, judges' retirement fund, 1977 police officers' and firefighters' pension and disability fund, the prosecuting attorneys' retirement fund, the teachers' retirement fund, and funds funded through the pension relief fund.**

(i) ~~"IRS" means the Internal Revenue Service.~~ (Board of Trustees of the Indiana Public Retirement System; [35 IAC 18-1-1](#); filed Jul 15, 2003, 4:30 p.m.: 26 IR 3880; readopted Jul 8, 2009: [20090715-IR-550090499ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 6-1-1](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 18-1-1](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 32. [35 IAC 18-1-2](#) IS AMENDED TO READ AS FOLLOWS:

### [35 IAC 18-1-2](#) Rollover for purchase of service

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 2-3.5-5-12](#); [IC 5-10-5.5-7.5](#); [IC 5-10.2-3-10](#); [IC 5-10.3](#); [IC 5-10.4](#); [IC 5-10.5](#); [IC 33-38-6](#); [IC 33-38-7](#); [IC 33-38-8](#); [IC 36-8-8](#)

Sec. 2. The **A** fund may accept any portion of an eligible rollover distribution in payment of all or a portion of a member's purchase of service credit authorized under the fund's statutes. The **A** fund may accept an eligible rollover distribution paid directly to the system in a direct rollover **and which is authorized under the fund's statutes.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 18-1-2](#); filed Jul 15, 2003, 4:30 p.m.: 26 IR 3881; readopted Jul 8, 2009: [20090715-IR-550090499ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 6-1-2](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 18-1-2](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 33. [35 IAC 18-1-3](#) IS AMENDED TO READ AS FOLLOWS:

### [35 IAC 18-1-3](#) Trustee-to-trustee transfer

Authority: [IC 5-10.5-4-2](#)

Affected: [IC 10-5.5-7.5](#); [IC 5-10.2-3-10](#); [IC 5-10.3](#); [IC 5-10.4](#); [IC 5-10.5](#); [IC 33-38-7](#); [IC 33-38-8](#); [IC 36-8-8](#)

Sec. 3. The **A** fund may accept a direct trustee-to-trustee transfer from a deferred compensation plan under Code Section 457(b) or a tax-sheltered annuity under Code Section 403(b) for the purchase of permissive service credit, as defined in Code Section 415(n)(3)(A) **and which is authorized under the fund's statutes**, or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3) **and which is authorized under the fund's statutes.** (Board of Trustees of the Indiana Public Retirement System; [35 IAC 18-1-3](#); filed Jul 15, 2003, 4:30 p.m.: 26 IR 3881; readopted Jul 8, 2009: [20090715-IR-550090499ONA](#); adopted Apr 26, 2013: [20130508-IR-035130167ONA](#)) NOTE: Transferred from the Board of Trustees of the Indiana State Teachers' Retirement Fund ([550 IAC 6-1-3](#)) to the Board of Trustees of the Indiana Public Retirement System ([35 IAC 18-1-3](#)) by P.L.23-2011, SECTION 22, effective July 1, 2011.

SECTION 34. THE FOLLOWING ARE REPEALED: [35 IAC 8](#); [35 IAC 10](#).

DATED: April 26, 2013

Kendall W. Cochran  
Chairman of the Board of Trustees  
Indiana Public Retirement System

Resolution adopted by 6 affirmative, 0 negative votes.

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