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**Rules of  
Retirement Systems**  
**Division 10—The Public School Retirement  
System of Missouri**  
**Chapter 5—Retirement, Options and Benefits**

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**Title 16—RETIREMENT SYSTEMS**  
**Division 10—The Public School**  
**Retirement System of Missouri**  
**Chapter 5—Retirement, Options**  
**and Benefits**

**16 CSR 10-5.010 Service Retirement**

*PURPOSE: This rule sets forth the procedures for the claiming and payment of service retirement benefits under sections 169.070 and 169.075, RSMo, and restrictions on employment as provided by section 169.560, RSMo.*

(1) A member qualifying for service retirement shall file a written application with the board of trustees on a form provided by the board before s/he can become eligible to receive retirement allowance payments.

(2) The earliest date on which service retirement may become effective is the first day of the calendar month following the calendar month in which the services of the member are terminated, or the first day of the calendar month following the filing of the Application for Service Retirement, whichever is later; except that the earliest date on which service retirement may become effective for a member retiring after receiving credit for a year of membership service shall be July 1, the first day of the fiscal year following the termination of services. Termination from employment covered by the retirement system prior to the effective date of retirement is required to be eligible for a retirement benefit. A member shall not be deemed to have terminated employment if the member is employed in any capacity by an employer covered by the retirement system within one (1) month after his or her effective date of retirement. Effective July 1, 2016, a member shall not be deemed to have terminated employment if, prior to receipt of his or her first benefit payment, the member reaches an agreement, whether written or unwritten, for future employment in any capacity by an employer covered by the retirement system. The member shall be required to repay any benefit payments paid if it is determined that the member did not terminate employment covered by the retirement system.

(3) The first retirement allowance, because of service retirement, shall be paid not later than the calendar month immediately following the month in which the application is approved. The first payment after the approval shall include any allowances which

have accrued between the effective date of retirement and the date of the first payment.

(4) Except as provided in section (6), if a retired member receiving a retirement allowance returns to employment in a position covered by the retirement system, the retirement allowance shall cease, s/he shall become a new member of the retirement system and shall make contributions to the system. Upon a subsequent termination of services as a teacher, payment of the previously determined retirement allowance shall be resumed.

(5) Except as provided in section (6), a retirement allowance shall not be paid a retired member during any month in which compensation is earned as specified in section 169.560, RSMo; provided that this rule shall not apply to employment with a state college, a state university, or any state agency.

(6) Part-time employment is any employment which is less than full-time. Temporary-substitute employment is any employment either in a position held by a regularly employed person who is temporarily absent or in a position which is temporarily vacant.

(A) A retiree receiving a retirement benefit, other than a disability benefit, from the Public School Retirement System of Missouri (PSRS) may be employed by an employer included in the system to serve on a part-time or temporary-substitute basis in any position that would normally require that person to be duly certificated by the Department of Elementary and Secondary Education (DESE), including substituting in a teaching position, or in any position at a community college included in the system not to exceed five hundred fifty (550) hours in any one (1) school year and through such employment may earn an amount not in excess of the compensation limit set forth in this rule and section 169.560, RSMo, without a discontinuance of the retired member's retirement allowance. The limit on compensation shall be determined as set forth in section 169.560, RSMo. If the position or positions did not previously exist, a retired member may earn up to fifty percent (50%) of the annual compensation payable for the position within the employer that is most comparable to the position filled by the retired member without exceeding the compensation limit. If such employment exceeds either the limitation on hours worked or the limitation on compensation, payment of benefits to the retired member shall cease until the employment terminates or a new school year begins.

(B) The provisions above shall apply to any person retired and currently receiving a retirement allowance under sections 169.010,

RSMo to 169.141, RSMo who is employed by a third party or is performing work as an independent contractor, if such person is performing work for an employer included in the retirement system as a temporary or long-term substitute teacher or in any position that would normally require that person to be duly certificated by the Missouri Department of Elementary and Secondary Education if such person was employed by the employer. The retirement system may require the employer, the third-party employer, the independent contractor, and the retiree, subject to this section, to provide documentation showing compliance with this section. If such documentation is not provided, the retirement system may deem the retiree to have exceeded the limitations provided in this section.

(C) A retiree receiving a retirement benefit, other than a disability benefit, from PSRS may be employed by an employer included in that system in any position that normally does not require a person employed in that position to be duly certificated by the Department of Elementary and Secondary Education and through such employment may earn during the school year not more than sixty percent (60%) of the minimum teacher's salary for a teacher without a master's degree as set forth in section 163.172, RSMo without a discontinuance of the retiree's retirement allowance. The employer shall contribute to the Public Education Employee Retirement System of Missouri (PEERS) at the rate set for that system on all salary as defined in section 169.010, RSMo and 16 CSR 10-3.010(9) of the person so employed. Such employee shall not contribute on such earnings and shall earn no service credit in either system for such employment. If such employment exceeds the limitation on compensation, the retiree's retirement benefit from PSRS shall cease until the employment terminates or a new school year begins, and such person shall become a member of and contribute to any retirement system described in this subsection if the person satisfies the retirement system's membership eligibility requirements. A PSRS retiree who meets PSRS eligibility requirements after exceeding the limits set forth above shall not be eligible to elect membership in PEERS under section 169.712, RSMo. The provisions of this subsection shall not apply to positions held by a PSRS retiree employed by a community college included in the system.

(D) This rule shall not apply to employment with a state college, a state university, or any state agency.

(E) The employer covered by PSRS, the third-party employer, the independent contractor, and the retiree shall maintain a log of all dates worked, hours worked, wage earned, and the employer. The employer covered by



PSRS, the third-party employer, the independent contractor, and retiree shall provide a copy of the work log upon request of retirement system.

Table with 4 columns: Employee Name, Date Worked, Hours Worked, School Year, Wage Earned, Employer

The working after retirement limits set forth in section 169.560, RSMo, shall be applied on a pro rata basis as provided below to a retiree's hours of work during the school year in which the retiree's date of retirement is effective.

Table with 2 columns: Effective date of retirement, Hours allowed after retirement for school year

The working after retirement limits set forth in section 169.560, RSMo, shall be applied on a pro rata basis as provided below to a retiree's base salary to determine the retiree's earnings limit during the school year in which the retiree's date of retirement is effective.

Table with 2 columns: Effective date of retirement, Percentage of base salary allowed after retirement for school year

(7) Effective July 1, 2015, for any employment teaching at a community college included in the system, each credit hour taught by a retired member will be the equivalent of thirty (30) hours for the purposes of this rule and section 169.560, RSMo, regardless of the number of hours actually worked by the retired member related to the course(s) taught. For any said course(s) taught during summer session, all hours for said course(s) shall be counted as having occurred during the school year in which the course(s) commence. Any hours worked performing additional duties for a community college not related to said course(s) for which a retired member receives compensation above and beyond that received for teaching said course(s) shall be counted on an hour-by-hour basis for the purposes of this rule and

section 169.560, RSMo.

(8) For purposes of applying the provisions of section 169.560, RSMo only, no state college, state university, or state agency shall be considered to be a district, employer, or public school as those terms are defined in section 169.010, RSMo. Any retired member who is employed by a state college, a state university, or any state agency shall not be subject to the requirements and restrictions of section 169.560, RSMo.

(9) Any person who is receiving or has received a retirement allowance from the system, other than a disability retirement allowance, who returns to employment in a position covered by the system shall undertake such employment under a new and separate membership in the system.

(A) Such person shall be eligible for a subsequent retirement allowance after one (1) year of creditable service under the new membership in the system. Such subsequent retirement allowance shall be separate and distinct from such person's previous retirement allowance.

(B) After earning at least one (1) year of creditable service and upon termination of employment under the subsequent membership with the system, such person may: 1) withdraw from the system and receive a refund of the person's contributions made during the subsequent membership and interest credited thereon; 2) apply for a subsequent retirement allowance; or 3) leave the contributions with the system.

(C) Such person shall not receive a retirement allowance for any previous membership service while the person is earning creditable service under a subsequent membership with the system.

(D) The minimum benefit amounts provided in section 169.070.17, RSMo, shall not apply to any retirement allowance other than such person's initial retirement allowance provided by the system.

(E) All previous years of creditable service, not otherwise forfeited, will be considered to determine the formula factor to be used in calculating the subsequent retirement allowance.

(10) For the purpose of determining eligibility for retirement as a result of the sum of a member's age and years of creditable service equaling eighty (80) years or more, the member's age shall be determined by adding the member's age on the date of his or her most recent birthday and the partial year following the member's most recent birthday. Such partial year shall be determined by converting the member's age to the nearest day into a number rounded to the nearest hundred-thousandth.

(11) A member electing Option 2, Option 3,

or Option 4 in his/her application for service retirement shall furnish proof of date of birth of the person nominated to receive the survivorship payments.

(12) The member electing Option 2, Option 3, or Option 4 in his/her application for service retirement shall indicate the relationship establishing an insurable interest in his/her life for the person nominated and, if requested by the board, shall furnish evidence of the existence of the insurable interest. An "insurable interest" shall be considered to exist because of the relationship to a member of a wife, husband, father, mother, child (including a stepchild or adopted child), or any other person who has a financial interest in the continued life of the member or who is dependent upon the member for all or part of his/her support.

(13) Any member retiring under the provisions of section 169.563, RSMo, shall have the same rights of retirement benefit plan election as a member retiring under section 169.070, RSMo. Further, the surviving spouse of any member who dies prior to retirement and while eligible to retire under section 169.563, RSMo, shall have the same survivorship benefit rights as provided under section 169.070, RSMo.

(14) A member who has made additional deposits with the system will, upon retirement, receive an addition to the retirement allowance provided for in section 169.070, RSMo unless s/he elects to withdraw his/her accumulated deposits without interest.

(15) The provisions of subsection 15 of section 169.070, RSMo, shall be applicable to retirement allowance payments made on September 30, 1987 and thereafter. In determining any increase in benefits allowable under subsection 15 to those retirees receiving benefits under section 169.070.9(4), RSMo, the "retirement allowance" shall be deemed to be the amount which would have been payable had the allowance not been reduced to two-thirds (2/3) as provided in section 169.070.9(4), RSMo.

(16) Any actuarial adjustment to a retirement allowance payment made because of the nomination of a successor beneficiary as provided in 169.141, RSMo, shall take effect in the month a properly completed nomination of successor beneficiary form is received by the Retirement System or the month of the retiree's marriage to the successor beneficiary, whichever occurs later. The nomination of a successor beneficiary shall be effective immediately upon receipt by the Retirement System of the properly completed nomination of successor beneficiary form or the date of the retiree's marriage to the successor beneficiary, whichever occurs later. Effective



August 28, 2017, the properly completed nomination of a successor beneficiary form submitted pursuant to section 169.141, RSMo must be received by the Retirement System within one (1) year of remarriage of the retirement member and the new spouse.

(17) The effective date of any monthly benefit to a service retiree shall be the first day of the calendar month following the event establishing eligibility for the benefit, assuming all other requirements of the law and rules of the board of trustees have been met. Monthly benefit payments shall be made on the last day of each calendar month and shall be only for complete months. The initial payment shall include all benefits accrued since the effective date.

(18) Pursuant to section 169.596, RSMo, a person receiving a retirement benefit from the Public School Retirement System of Missouri (PSRS) may teach up to full-time for no more than twenty-four (24) months for a PSRS-covered school district without a suspension of his or her retirement benefit provided that such school district certifies that it has met the requirements set forth in section 169.596, RSMo, and provided that such school district does not exceed the limit on the number of PSRS retirees that may be hired pursuant to section 169.596, RSMo.

(A) As used in section 169.596, RSMo, “teacher” shall have the same definition as provided in section 169.010(17), RSMo.

(B) As used in section 169.596, RSMo, “early retirement incentive” shall have the same definition as “consideration for agreeing to terminate employment” provided in 16 CSR 10-3.010(9)(B)6., except that it shall not include retirement notice or separation notice incentives of total value of five thousand dollars (\$5,000) or less for providing notice of intent to retire or separate employment.

(C) As used in section 169.596, RSMo, “teach” shall mean to be employed in any position for a school district covered by PSRS.

(D) The school district shall notify PSRS in a manner acceptable to PSRS of the school district’s intent to hire a PSRS retiree under section 169.596 prior to the first date of such employment.

(E) A school district hiring a PSRS retiree under section 169.596, RSMo, shall certify to PSRS through the Online Automated System Integrated Solution (OASIS) or in another manner acceptable to PSRS that—

1. It has met the requirements of section 169.596, RSMo; and

2. It has not exceeded the limit on the number of PSRS retirees it may hire under section 169.596, RSMo.

(19) If the designated joint and survivor ben-

eficiary of a retiree who elected Option 2, 3, or 4 dies before the retired member, the retired member’s retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected Option 1. The increase in retirement allowance shall be effective the month of the beneficiary’s death.

(20) Any member receiving a retirement allowance from the Public School Retirement System of Missouri who elected a reduced retirement allowance under subsection 3 of section 169.070, RSMo who, at the time of that election, named his or her spouse as the nominated beneficiary may have the retirement allowance increased to the amount the retired member would be receiving had the retired member elected Option 1 under the following circumstances:

(A) Where the marriage of the retired member and the nominated spouse was dissolved on or after September 1, 2017, the dissolution decree must clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System.

(B) Where the marriage of the retired member and the nominated spouse was dissolved prior to September 1, 2017:

1. If the dissolution decree clearly provides for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System, the parties must either obtain an amended or modified dissolution decree after September 1, 2017 that provides for the immediate removal of the nominated spouse, or the nominated spouse must sign a notarized statement on a form designated by the Public School Retirement System consenting to his or her immediate removal as the nominated beneficiary and disclaiming all rights to future benefits; and

2. If the dissolution decree does not clearly provide for sole retention by the retired member of all rights in the retirement allowance to the satisfaction of the Public School Retirement System, the parties must obtain an amended or modified dissolution decree after September 1, 2017, which provides for sole retention by the retired member of all rights in the retirement allowance;

(C) The retired member and the nominated spouse must have been married at the time of the election of the reduced retirement allowance under subsection 3 of section 169.070, RSMo;

(D) In order to receive the increased retirement allowance, a retired member who elected a term certain plan under subsection 3 of section 169.070, RSMo must have named his or her spouse as the primary beneficiary at

the time of retirement. The increased retirement allowance shall continue for the remainder of the retired member’s lifetime and no provisions of the term certain plan shall continue to apply to the retired member. All beneficiaries nominated by the retired member under the term certain plan shall be void, and the retired member must name new beneficiaries for any accumulated contributions payable upon the retired member’s death. The retired member shall not be eligible to nominate a new spouse pursuant to section 169.141, RSMo; and

(E) Any such increase in the retirement allowance shall be effective upon the receipt of an application for such increase, including the nominated spouse’s consent and disclaimer form, if required, and a certified copy of the decree of dissolution (and separation agreement, if applicable) that meets the requirements of this section. The increased retirement allowance will be paid prospectively only after receipt of all of the aforementioned documents. No retroactive benefits will be paid.

*AUTHORITY: section 169.020, RSMo 2016.\* Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. Amended: Filed June 10, 1980, effective Sept. 15, 1980. Emergency amendment filed Sept. 10, 1987, effective Sept. 20, 1987, expired Jan. 18, 1988. Amended: Filed Sept. 10, 1987, effective Jan. 29, 1988. Emergency amendment filed Dec. 29, 1987, effective Jan. 8, 1988, expired April 27, 1988. Amended: Filed Dec. 29, 1987, effective May 26, 1988. Emergency amendment filed Aug. 24, 1988, effective Sept. 3, 1988, expired Jan. 1, 1989. Amended: Filed Aug. 24, 1988, effective Dec. 29, 1988. Emergency amendment filed Dec. 20, 1989, effective Dec. 30, 1989, expired April 29, 1990. Amended: Filed Dec. 20, 1989, effective April 12, 1990. Amended: Filed Nov. 8, 1991, effective March 9, 1992. Amended: Filed April 29, 1993, effective July 1, 1994. Amended: Filed June 28, 1993, effective Dec. 9, 1993. Amended: Filed Oct. 29, 1993, effective May 9, 1994. Amended: Filed July 31, 1995, effective Feb. 25, 1996. Amended: Filed Feb. 26, 1996, effective Aug. 30, 1996. Amended: Filed Aug. 9, 1999, effective Feb. 29, 2000. Amended: Filed Aug. 29, 2003, effective Feb. 29, 2004. Amended: Filed Nov. 1, 2006, effective April 30, 2007. Amended: Filed Jan. 4, 2010, effective July 1, 2010. Amended: Filed July 20, 2010, effective Jan. 30, 2011. Amended: Filed July 2, 2012, effective Dec. 30, 2012. Amended: Filed June 24, 2013, effective Jan. 30, 2014. Amended: Filed Dec. 9, 2014, effective June 30, 2015. Amended: Filed April 14, 2015, effective Oct. 30, 2015. Amended: Filed Sept. 6, 2017, effective March 30, 2018. Amended: Filed Jan. 4, 2019, effective July*



30, 2019. Amended: Filed Sept. 23, 2019, effective March 30, 2020. \*\*

\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996, 1998, 2005, 2009, 2013.

\*\*Pursuant to Executive Orders 20-04, 20-10, and 20-12, 16 CSR 10-5.010, subsections (6)(A), (6)(C), and (6)(E) was suspended from August 7, 2020 through December 30, 2020.

### 16 CSR 10-5.020 Disability Retirement

**PURPOSE:** This rule provides the procedure for claiming a disability benefit as authorized in sections 169.060, 169.070, and 169.075, RSMo.

(1) A member claiming disability retirement must file an application for retirement with the board of trustees on a form provided by the board.

(2) The board of trustees shall designate one (1) or more medical advisers whose duties shall be to review and determine eligibility for all disability retirement applicants, including assigning physicians for examinations and reports, when necessary. The board of trustees shall pay the fees of the assigned examining physicians and shall pay the medical advisers a fee for each application. The medical advisers shall report on the findings of the examining physicians and the board of trustees or designated staff shall act on these findings.

(3) The earliest date on which disability retirement may become effective is the first day of the calendar month following the calendar month in which the services of the member are terminated, or the first day of the month following the month in which the claim is approved, whichever is later; except that the earliest date on which disability retirement may become effective for a member retiring after receiving credit for a year of membership service shall be July 1, the first day of the school year following the termination of services. Termination from employment covered by the retirement system prior to the effective date of disability retirement is required to be eligible for a disability retirement benefit.

(4) The first payment after approval shall include any benefits which have accrued between the date of disability and the date of the first payment, provided, however, that benefits shall not accrue for more than sixty (60) days prior to the date of filing the application.

(5) Until the member receiving disability

benefits reaches age 60, the member may be required to submit yearly Certification of Disability Status forms as completed by the member's physician or the member may be required to obtain periodic examinations by physicians selected and paid by the board, provided there shall not be more than two (2) examinations in any year.

(6) Any member who is receiving a disability retirement allowance from the retirement system and who has attained age sixty (60) may be employed in any capacity for, and receive income of any amount from, any employer except a school district included in the retirement system. Any such member may be employed in a district included in the retirement system without a discontinuance of the retirement allowance if such employment does not exceed the limitations set forth in section 169.560, RSMo, and 16 CSR 10-5.010(6). Pursuant to section 169.560, RSMo, the limitations apply to disability retirees over age sixty (60) who are employed by a third party or as an independent contractor, if such disability retiree is performing work in a district included in the retirement system as a temporary or long-term substitute teacher or in any other position that would normally require that person to be duly certificated under the laws governing the certification of teachers in Missouri if such person was employed by the district.

(7) Any member who is receiving a disability retirement allowance from the retirement system and who has not attained age sixty (60) may not be employed in any capacity by a district included in the retirement system and continue to receive the disability retirement allowance. Any such person may not be employed in any capacity for any other employer, the compensation for which employment would constitute a livelihood, and continue to receive the disability retirement allowance. The board of trustees will determine that a member who is receiving a disability retirement allowance is earning a livelihood for any given year when the member earns more than twelve (12) times the Substantial Gainful Activity monthly limit for non-blind Social Security Disability Insurance recipients for that year. Income is earned for purposes of this section when it is received as a result of wages, including bonuses, commissions, or severance pay, or is net earnings from self-employment. Investment income, pensions, capital gains, legal settlements or judgments, rental income that is not a part of self-employment (e.g., someone who is in the business of renting property), support or alimony payments, and inheritances are some

examples of unearned income which would not count toward the earnings limit. The recipient of disability retirement benefits who has not attained age sixty (60) shall be required to submit an annual verification of income and may be required to submit tax returns, W-2 forms, pay stubs, and other forms of documentation as evidence of continued eligibility for disability retirement.

(8) If the member fails to provide the board of trustees with the completed Certification of Disability Status form or obtain a periodic examination as required by section (5), fails to provide the income verification as required by section (7), or earns a livelihood in excess of the limits set forth in section (7), the member's disability benefit shall be suspended until such certification of the member's continued disability can be made or until the member reaches age sixty (60).

(9) A recipient of disability benefits may make a written request to the board of trustees to return to full-time or part-time employment on a trial basis. The written request shall include the proposed employer and the proposed start date of employment. The written request shall then either be approved or denied by the board of trustees. If the request is approved, the recipient's disability benefit shall be placed on hold by the board of trustees for the duration of the trial period, which is not to exceed twelve (12) calendar months. If the recipient is unable to complete his or her trial basis employment period, the recipient must provide written documentation to the board of trustees stating that he or she is not able to complete the trial period. The board of trustees may require the recipient to again submit to a periodic examination by physicians selected by the board of trustees, to determine if the recipient remains incapable of earning a livelihood in any occupation. If determined to still be incapable of earning a livelihood in any occupation, the recipient shall again be considered a disability retiree and receive a disability retirement benefit without resubmitting an Application for Disability Retirement; any contributions paid to the retirement system by the recipient and his or her employer during the incomplete trial basis employment period will be refunded to the employer, which shall then refund its employee for any employee-paid contributions. The recipient shall receive no additional service credit for the incomplete trial basis employment period. If the recipient does successfully complete his or her trial basis employment, his or her disability retirement will be terminated and his or her membership status as of the date of the member's



disability retirement shall be restored; any contributions paid by the recipient and his or her employer to the retirement system during the trial basis employment period will be retained by the retirement system and applied to the member account as payment toward any disability benefits paid during the member's retirement. The recipient will be granted service credit for the trial basis employment period. In no event, shall the recipient receive a benefit payment in the same calendar month in which the recipient either works for his or her trial basis employer or receives service credit.

(10) Upon the death of a disability retiree, his or her beneficiary is entitled to the same benefits as the beneficiary of a member who dies while employed in a district included in the retirement system as outlined under sections 169.070 and 169.075, RSMo.

*AUTHORITY: section 169.020, RSMo Supp. 2020.\* Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. Amended: Filed Aug. 11, 1977, effective Nov. 15, 1977. Amended: Filed Aug. 14, 1989, effective Nov. 11, 1989. Amended: Filed April 13, 1994, effective Sept. 30, 1994. Amended: Filed July 31, 1995, effective Feb. 25, 1996. Amended: Filed Aug. 9, 1999, effective Feb. 29, 2000. Amended: Filed Sept. 1, 2005, effective Feb. 28, 2006. Amended: Filed Jan. 4, 2010, effective July 1, 2010. Amended: Filed Feb. 15, 2013, effective July 30, 2013. Amended: Filed May 20, 2020, effective Nov. 30, 2020.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996, 1998, 2005, 2009, 2013, 2020.*

### 16 CSR 10-5.030 Beneficiary

*PURPOSE: This rule sets forth the procedure for naming beneficiaries and their eligibility as provided by sections 169.070 and 169.075, RSMo.*

(1) Each member may designate a beneficiary and contingent beneficiaries by filing with the retirement system a form furnished by the board for this purpose. If a member fails to designate a beneficiary, the beneficiary shall be determined pursuant to section 169.076, RSMo.

(2) A member may change a beneficiary(ies) at any time prior to retirement by filing a request for change with the board of trustees on a form furnished by the board for this purpose.

(3) Accumulated contributions of a deceased

member due a beneficiary or estate upon the death of a member shall be paid within sixty (60) days of the establishment of the claim. If the beneficiary is a minor, payment shall be made to the conservator of the minor appointed by the court after the filing of a certified copy of the court order making the appointment or to the custodian designated under the Missouri Transfers to Minors Law, upon receipt of appropriate documentation.

(4) Upon the death of a member or retiree, payments shall be made as set forth below.

(A) The designated beneficiary of a deceased member prior to retirement shall be entitled to receive payment of the accumulated contributions of the deceased member if an alternate benefit is not elected by the beneficiary. If the member fails to designate a beneficiary on the form provided, if the beneficiary designation form on file is deemed invalid by operation of section 169.076.2., RSMo, or if no beneficiary designated on the form provided survives the member, the benefit shall be paid in accordance with section 169.076, RSMo.

(B) The designated beneficiary of a deceased retiree who retired before January 1, 2012, and elected Option 1 at retirement shall be entitled to receive any balance of the deceased retiree's accumulated contributions in excess of the total retirement allowances paid. If the retiree fails to designate a beneficiary on the form provided or if no beneficiary designated on the form provided survives the member, the benefit shall be paid in accordance with section 169.070.4., RSMo.

(C) All members retiring on or after January 1, 2012, who elect Option 1 must designate a beneficiary at or after the time of their retirement and any beneficiary designation made prior to the member's retirement shall be deemed void at the time of their retirement. Any beneficiary designated at or after retirement by a retiree electing Option 1 shall, upon the retiree's death, be entitled to receive any balance of the deceased retiree's accumulated contributions in excess of the total retirement allowances paid. If the retiree fails to designate a beneficiary at or after retirement on the form provided or if no beneficiary designated on the form provided survives the member, the benefit shall be paid in accordance with section 169.070.4., RSMo.

(D) If both a retiree who elected Option 2, 3, or 4 and the designated joint survivor under the option are deceased, any existing balance of the deceased retiree's accumulated contributions in excess of the total retirement allowances paid to the retiree and to the joint survivor shall be paid to the beneficiary designated for that purpose. If the retiree fails to designate a beneficiary on the form provided or if no beneficiary designated on the form provided survives the member, the benefit

shall be paid in accordance with section 169.070.4., RSMo.

(E) No payment of accumulated contributions shall be made to an estate except through the personal representative who has been legally qualified and who shall file a certified copy of the appointment; except, that in cases where the court does not appoint a personal representative, payment shall be made upon order of the court to the person(s) designated by the court, or in the absence of court order, the system may make payment to a surviving heir if all known surviving heirs sign an Indemnity Agreement and file this agreement with the board of trustees prior to the payment where such agreement would adequately protect the system; or payment may be made in accordance with the provisions of section 473.097, RSMo, relating to small estates.

(5) Payments due a beneficiary of a deceased service retiree under Option 2, 3, 4, 5, or 6 shall commence with the month following the month in which the retiree dies. Payments due a beneficiary under Option 2, 3, or 4 shall cease with the payment at the end of the month in which the death of the beneficiary occurs. Under Options 5 and 6, if the retiree dies prior to receiving one hundred twenty (120) or sixty (60) monthly payments, respectively, the remainder of such monthly payments shall be paid to the retiree's primary beneficiary. If the primary beneficiary dies prior to receiving the remainder of the one hundred twenty (120) or sixty (60) monthly payments under Option 5 or 6, respectively, the remainder of such monthly payments shall be paid to the retiree's first contingent beneficiary. If the first contingent beneficiary dies prior to receiving the remainder of the one hundred twenty (120) or sixty (60) monthly payments under Option 5 or 6, respectively, the remainder of such monthly payments shall be paid to the retiree's second contingent beneficiary. If there is no primary or contingent beneficiary who survives the retiree for the remainder of the one hundred twenty (120) or sixty (60) monthly payments under Option 5 or 6, respectively, the reserve of the remainder of such payments shall be paid in accordance with section 169.070.3.(1), RSMo.

(6) A beneficiary who is eligible to receive benefits as provided for in section 169.075, RSMo, in lieu of the other benefits payable at death of the member or disability retiree must elect to receive these benefits in writing on a form provided by the board of trustees and before the date the first payment would begin to accrue, except that an election made within one (1) year of the death of the member or disability retiree may be effective from the first of the month following the event which establishes eligibility for the benefits. An election may not be changed after a payment



has been made. No beneficiary shall be eligible to receive benefits pursuant to section 169.075, RSMo, after a member's initial retirement even in the event of the previously retired member's death during a subsequent membership with the system.

(7) A beneficiary electing to receive benefits under section 169.075, RSMo, at the time of the election shall furnish to the board of trustees upon forms provided by the board the information necessary to determine the eligibility of the beneficiary to receive the benefits; and proof of date of birth of the beneficiary or dependents, if any, shall be furnished before benefits are paid.

(8) Benefits payable because of an election provided for in section 169.075, RSMo, shall accrue from the first day of the month following the date on which the beneficiary becomes eligible for the benefits. The monthly benefit payment amounts shall be those provided under the law in effect at the death of the member or disability retiree. Such payments shall be made until the age provided under current law.

(9) Payments due a survivor shall cease with the last monthly payment prior to the event terminating eligibility for such payments except when the terminating event is the death of the survivor, in which case payments shall cease with the payment made at the end of the month in which death occurs.

(10) If the survivor receiving benefits is a dependent, unmarried, disabled child of a member who dies before retirement, the following applies:

(A) If the surviving spouse is the designated beneficiary, the child will be considered as any other child until s/he has become age eighteen (18); s/he will be considered as any other child until becoming age twenty-four (24) if s/he continues in school on a full-time basis; s/he will become eligible for a monthly benefit as a disabled, unmarried child upon becoming age eighteen (18) or twenty-four (24) and will receive this allowance each month as long as s/he remains eligible; the surviving spouse will be returned to the roll to receive the statutory benefit upon becoming sixty (60) years of age, if eligible;

(B) If a child is the designated primary beneficiary, the benefits prior to attainment of age eighteen (18), or twenty-four (24) if the child is enrolled in school on a full-time basis and after age eighteen (18) for the disabled child, will be in accordance with subsection 4 of section 169.075, RSMo, and the monthly payment will be continued as long as

the disabled child is eligible;

(C) In either subsection (10)(A) or (B) of this rule, if there is no eligible child of the deceased member under age eighteen (18), or twenty-four (24) if the child is enrolled in school on a full-time basis except the disabled child who would no longer be eligible were it not for the disability, the monthly payment for the disabled child will be paid as long as s/he remains eligible; and the surviving spouse will not be excluded from a benefit upon attainment of age sixty (60) because of the eligibility of the surviving dependent child; and

(D) A child eligible under section 169.075.3., RSMo, who has attained age eighteen (18), and for whom the monthly allowance has been paid, will be eligible to receive the benefit during the three (3) summer months of June, July, and August if s/he was enrolled in school on a full-time basis in the period immediately preceding these summer months and plans to be in attendance during the next regular term. The same interpretation will apply if the surviving dependent is receiving an allowance under section 169.075.4., RSMo. A qualified dependent under this section includes a child who is disabled prior to the attainment of age eighteen (18) because of mental or physical impairment which renders the child unable to engage in substantial gainful activity, and which disability continues after the child has attained age eighteen (18).

(11) Payments which are to be made because of a surviving dependent unmarried child(ren) as provided in section 169.075, RSMo, shall be made in accordance with court orders.

(12) Option 2 benefits payable under section 169.070, RSMo, to a beneficiary of a member or a disability retiree who dies prior to becoming retired on service retirement shall accrue as follows:

(A) If the beneficiary elects to receive an immediate benefit, then the benefit shall be payable the first day of the month following the death of the member or disability retiree. If the beneficiary elects to receive a deferred benefit to begin when the member or disability retiree would have been eligible to receive a retirement allowance under section 169.070.1. or 2., RSMo, then the benefit shall be payable the first day of the month following the event which would have established the eligibility for such retirement allowance. If the beneficiary elects to receive a deferred benefit to begin when the member or disability retiree would first have been eligible to receive an actuarial equivalent of a

retirement allowance, then the benefit shall be payable the first day of the month following the event which would have established eligibility for the actuarial equivalent.

(B) The benefits payable shall be those provided under the law in effect at the date the payments begin. Any actuarial equivalent factors applied in the benefit calculation shall be those in effect at the time benefit payments begin.

(C) The election by the beneficiary for Option 2 benefits must be made before the date the first payment would begin to accrue, except that an election made within one (1) year of the death of the member or disability retiree may be effective from the first of the month following the event which established eligibility for the retirement allowance. An election may not be changed after a payment has been made.

(D) Option 2 benefits payable pursuant to section 169.070, RSMo, to a beneficiary of a member or a disability retiree who dies prior to becoming retired on service retirement shall be paid only to a sole beneficiary who had an insurable interest in the life of the member or disability retiree on the date of death. An "insurable interest" shall be considered to exist because of the relationship to a member of a wife, husband, father, mother, child (including a stepchild or adopted child), or any other person who has a financial interest in the continued life of the member or who is dependent upon the member for all or part of his or her support.

(13) The five thousand dollar (\$5,000) death benefit payable pursuant to section 169.070.20., RSMo, shall be payable to the beneficiary designated by the member to receive such benefit. If the member fails to designate a beneficiary on the form provided or if no beneficiary designated on the form provided survives the member, the death benefit shall be paid in accordance with section 169.070.21., RSMo.

(14) Proof of the death of the member or beneficiary is required before any benefits, including, but not limited to, accumulated contributions are paid to an estate or other beneficiary. Proof of death shall be established by submission of an original or a certified copy of a death certificate issued by the authority of the governmental entity responsible for issuing such certificates. Other documentation, including, but not limited to, an appropriate court order may be submitted for evaluation if it is not possible to obtain a death certificate.

(15) Pursuant to section 169.076.2, RSMo,



the member's marriage, divorce, withdrawal of accumulated contributions, or the birth of the member's child, or the member's adoption of a child, shall result in an automatic revocation of the member's previous designation in its entirety only if such event occurred on or after August 28, 2005, and before the member's effective service retirement date.

(16) If a member's child eligible to receive a benefit pursuant to section 169.075, RSMo, due to the application of section 169.076.1., RSMo, elects to receive the member's accumulated contributions in lieu of benefits under section 169.075, RSMo, the accumulated contributions shall be distributed to all surviving children, regardless of their eligibility for benefits pursuant to section 169.075, RSMo, in equal shares pursuant to section 169.070.5., RSMo. However, if the application of section 169.076, RSMo, is not required due to the member having a valid nomination of beneficiary form filed with the system, then the member's accumulated contributions, if chosen by the named beneficiary or beneficiaries, shall be distributed according to such nomination of beneficiary form.

*AUTHORITY: section 169.020, RSMo Supp. 2013.\* Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. Amended: Filed Aug. 11, 1977, effective Nov. 15, 1977. Emergency amendment filed Oct. 29, 1993, effective Nov. 8, 1993, expired March 7, 1994. Amended: Filed Oct. 29, 1993, effective May 9, 1994. Amended: Filed June 15, 1994, effective Nov. 30, 1994. Amended: Filed July 31, 1995, effective Feb. 25, 1996. Amended: Filed Dec. 12, 1996, effective June 30, 1997. Amended: Filed Oct. 15, 1997, effective April 30, 1998. Amended: Filed Aug. 10, 1998, effective Feb. 28, 1999. Amended: Filed Aug. 9, 1999, effective Feb. 29, 2000. Amended: Filed Dec. 15, 2000, effective June 30, 2001. Amended: Filed June 7, 2001, effective Dec. 30, 2001. Amended: Filed Sept. 1, 2005, effective Feb. 28, 2006. Amended: Filed Nov. 1, 2005, effective April 30, 2006. Amended: Filed Dec. 19, 2011, effective June 30, 2012. Amended: Filed Feb. 15, 2013, effective July 30, 2013. Amended: Filed April 30, 2014, effective Oct. 30, 2014.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996, 1998, 2005, 2009.*

**Op. Atty. Gen. No. 163, Black (10-20-77).** Under the 1977 amendments to section 169.070, RSMo, a member of the Public School Retirement System of Missouri having twenty-five (25) years of creditable service, but being less than age sixty, may retire and draw an actuarially reduced retirement

*allowance. Also, if such a member dies after gaining twenty-five years or more creditable service before retirement, his/her spouse if named as beneficiary may receive either survivorship benefits or payment of the member's accumulated contributions.*

#### 16 CSR 10-5.035 Calculation of Benefits Under Social Security Offset

*PURPOSE: This rule complies with the provisions of 104.342.7(2), RSMo requiring an offset of the Public School Retirement System benefit for Social Security benefits accrued after 1989, for employees of the Department of Elementary and Secondary Education.*

*PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) The offset amount will be determined using the maximum offset allowance defined in the *Internal Revenue Code* Section 401(1) and related regulations. The computed Public School Retirement System (PSRS) regular retirement benefit will be reduced by the offset amount, effective with the month of first eligibility for Social Security benefits after PSRS retirement.

(2) The PSRS benefit will not be reduced if the retiree certifies 1) ineligibility for Social Security benefits because of insufficient coverage, or 2) that Social Security benefit payments have not yet commenced. Periodic recertification will be required. The retiree shall notify the system immediately upon commencement of Social Security benefit payments.

(3) The retiree shall have the opportunity to demonstrate that the Social Security benefit payable is less than the maximum offset allowance. In such case, the regular retirement benefit will be reduced by the actual Social Security benefit payable.

(4) Once the offset has been applied, each future cost-of-living adjustment will be based on the then-current benefit payable.

*AUTHORITY: section 169.020, RSMo 1994.\* Original rule filed Oct. 21, 1994, effective April 30, 1995.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990.*

#### 16 CSR 10-5.040 Calculation of Retirement Allowance for a Member With Services in a College or Agency Also Providing Social Security Coverage

*PURPOSE: This rule sets forth the procedures for qualification and benefits to those members as set forth in House Bill 34, 1957 and those who subsequently become members and also have Social Security coverage.*

(1) July 1, 1957 is a dividing date. If the member was in active teaching at the time of the effective date of House Bill 34—May 14, 1957—or between that date and June 30, 1957, the employment at that time will determine the status of the member's services prior to July 1, 1957.

(A) If the member was in public school teaching, services prior to July 1, 1957, will be calculated on the formula for those without Social Security coverage.

(B) If the member was in a position which required Social Security contributions to be withheld from the salary payments in the 1956-57 school year, the calculation must be made on the basis of an employee with Social Security coverage.

(2) If the member was inactive at the time House Bill 34 became effective and the last teaching services prior to the inactive status did not require the withholding of Social Security contributions, when the member returns to teaching the following will prevail:

(A) If the member's employment does not require withholding of contributions for Social Security, all services will be valued under the full formula; and

(B) If the member's employment requires the withholding of contributions for Social Security, the previous services will be valued under the full formula and services after July 1, 1957, under the formula used with Social Security coverage.

(3) If the member was inactive at the time House Bill 34 became effective and the last teaching services prior to the inactive status required the withholding of Social Security contributions, when the member returns to teaching the following will prevail:





(A) If employment requires withholding of contributions for Social Security, all services will be valued under the formula used with Social Security coverage; and

(B) If employment does not require withholding of contributions for Social Security, all services will be valued under the full formula.

(4) The monthly benefit for those applicants for retirement beginning January 1, 1976, who have taught in systems where full contributions are required and also where two-thirds (2/3) contributions are required shall be the sum obtained by applying the average monthly salary for the best five (5) years of teaching service while a member of the retirement system times the appropriate formula provided in section 169.070, RSMo for each year or fraction of a year of service in a district where full contributions are required, and that obtained by applying the same final average salary times the same formula times two-thirds (2/3) for every year or fraction of a year in which the member contributed at two-thirds (2/3) the rate, provided a member with service in a system covered by Old Age Survivor's Insurance (OASI) prior to July 1, 1961, made the retroactive payment in accordance with subdivision 169.070.10., RSMo. This section of this rule applies only to the teacher system.

*AUTHORITY: section 169.020, RSMo 1994.\* Original rule filed Dec. 19, 1975, effective Jan. 1, 1976.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996.*

**16 CSR 10-5.045 Salary Rates for Benefit Calculations**

*PURPOSE: This rule establishes procedures for determining the salary rates used in calculating service retirement disability retirement and death benefits.*

(1) The system will determine salary rates for purposes of benefit calculation in accordance with 16 CSR 10-3.010(10). The determination will include only salary earned for service for an employer within the system and will exclude salary related to creditable service that was purchased or transferred.

*AUTHORITY: section 169.020, RSMo Supp. 1996.\* Original rule filed Dec. 22, 1993, effective July 10, 1994. Amended: Filed Feb. 13, 1997, effective July 1, 1997.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996.*

**16 CSR 10-5.050 Additional Benefits for Retirees, Beneficiaries and Members on Disability**

*PURPOSE: This rule provides for increased payments to teachers who retired before September 1, 1972, and eligible beneficiaries as set forth in subdivision 169.070.11., RSMo.*

(1) For all of those who retired prior to September 1, 1972, and had not qualified for a second retirement allowance prior to that date by serving another five (5) years or more, the current monthly allowance shall be increased by two percent (2%) for each year or major portion of a year from the original date of retirement till June 30, 1975.

(2) For those who retired and subsequently returned to teaching five (5) or more years and qualified for an additional benefit prior to September 1, 1972, the increase shall be computed separately for each retirement allowance for each year or major portion of a year till June 30, 1975, from the date of each retirement, and the total increase shall be the sum of the increase for each calculation.

(3) Since disability allowances are retirement allowances by the law, and since Options 1 and 2 are also extensions of one's retirement allowance by reduction of one's allowance to provide for an eligible beneficiary, we compute the increase for each of these where the member retired prior to September 1, 1972, for each year or major portion of a year from the effective date of the member's retirement till June 30, 1975. For those beneficiaries of deceased members who died before retirement and prior to September 1, 1972, the increase will be computed from the effective date of the benefit through June 30, 1975.

*AUTHORITY: section 169.020, RSMo 1994.\* Original rule filed Dec. 19, 1975, effective Jan. 1, 1976.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990.*

**16 CSR 10-5.055 Cost-of-Living Adjustments**

*PURPOSE: This rule provides for the implementation of cost-of-living adjustments to teachers and eligible beneficiaries as set forth in subdivision 169.070.12 and 13, RSMo.*

(1) The board of trustees, at the August meeting or as soon as sufficient data is available

after the end of the fiscal year, shall determine any cost-of-living adjustment to be effective with the January payment following the close of the fiscal year. The board shall consider the recommendation of the system's actuary in determining the amount of adjustment to be made.

(2) The recommendation of the actuary and the determination of the board shall take into consideration data from the National Consumer Price Index (CPI) and may include other pertinent data available. The cost-of-living change in the CPI shall be the June CPI of the fiscal year divided by the June CPI of the preceding fiscal year minus 1 and expressed as a percent. Example:

June 1976 CPI, 170.1; June 1975 CPI, 160.6  
 $(170.1 \div 160.6) - 1 = .059 = 5.9\%$

(3) When the board of trustees determines that a cost-of-living increase shall be granted, the increase shall be added to the allowance of any person receiving a service or disability retirement allowance, or beneficiary allowance pursuant to section 169.070.3, RSMo. The initial increase in a retiree's allowance shall not be granted before January 1, 1977, or until the retiree has been retired four (4) January firsts; or in the case of any member retiring on or after July 1, 2000, the initial increase in the retiree's allowance shall not be granted until the retiree has been retired three (3) January firsts; or in the case of any member retiring on or after July 1, 2001, the initial increase in the retiree's allowance shall not be granted until the retiree has been retired two (2) January firsts. A designated beneficiary of a deceased retiree who is receiving an allowance as provided in section 169.070.3, RSMo, will be eligible for an increase at the time the deceased retiree would have been eligible for an increase had he or she lived.

(4) If the cost-of-living decreases as determined by the board of trustees, the allowance which had previously been increased under the provisions of section 169.070.12, RSMo may be decreased by a percentage not to exceed the percentage of reduction in the cost-of-living as determined by the board, but the decrease or total of such decreases shall not reduce the allowance below that received at retirement, or on January 31, 1976, whichever is later. In determining whether a decrease shall be made, consideration shall be given not only to cost-of-living data as shown by the National CPI for the preceding fiscal year, but also to the total net economic change as reflected by the National CPIs of all years since the retiree or eligible beneficiary under



section 169.070.3, RSMo first qualified for a cost-of-living increase.

*AUTHORITY: section 169.020, RSMo 2000.\* Original rule filed Jan. 5, 1977, effective May 1, 1977. Amended: Filed June 10, 1980, effective Sept. 15, 1980. Amended: Filed Aug. 9, 1999, effective Feb. 29, 2000. Amended: Filed Aug. 21, 2000, effective Feb. 28, 2001. Amended: Filed Aug. 15, 2001, effective Feb. 28, 2002.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996, 1998.*

### 16 CSR 10-5.060 Benefits to Advisers

*PURPOSE: This rule sets forth the procedure for payment as an adviser for a retired member who had services in another state teacher retirement system as provided in section 169.585, RSMo.*

(1) In those instances when a retired member is receiving retirement benefits from more than one (1) system under Chapter 169, RSMo and is entitled to additional compensation under provisions of section 169.585, RSMo, the retirement system under which the member first retired, or qualified for benefits, should pay the initial compensation for that employment. If the combined retirement allowances and this payment do not total the overall legal maximum of one hundred fifty dollars (\$150), the second retirement system will then pay the additional compensation for employment for that system.

*AUTHORITY: section 169.020, RSMo 1994.\* Original rule filed Dec. 19, 1975, effective Jan. 1, 1976.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990.*

### 16 CSR 10-5.070 Qualified Governmental Excess Benefit Arrangement

*PURPOSE: This rule implements section 169.070.16, RSMo and section 415(m) of Title 26 of the United States Code and allows for the payment of benefits in excess of the limits imposed by section 415 of Title 26 of the United States Code and section 169.070.16, RSMo to which retirees and beneficiaries are otherwise entitled pursuant to Chapter 169, RSMo.*

(1) Definitions.

(A) "Maximum benefit" shall mean the benefit a retiree or beneficiary is entitled to

receive from the retirement system in any month after giving effect to section 169.070.16, RSMo designed to conform to the annual benefit limit set forth in section 415 of Title 26 of the *United States Code* as amended.

(B) "Retirement system" shall mean The Public School Retirement System of Missouri established pursuant to Chapter 169, RSMo.

(C) "Section 415(m) benefit participant" shall mean any retiree or beneficiary whose benefits otherwise payable pursuant to Chapter 169, RSMo without giving effect to the limitations of section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*, would exceed the maximum benefit permitted under section 415 of Title 26 of the *United States Code*. Eligibility as a section 415(m) benefit plan participant shall be determined by the retirement system at retirement and annually thereafter.

(D) "Section 415(m) benefit plan" shall mean the separate, unfunded qualified governmental excess benefit arrangement within the meaning of section 415(m) of Title 26 of the *United States Code* and established pursuant to section 169.070.16, RSMo and this rule that is a separate portion of the retirement system.

(E) "Unrestricted benefit" shall mean the monthly benefit a retiree or beneficiary would have been entitled to receive from the retirement system under Chapter 169, RSMo without giving effect to the restrictions of section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*.

(2) A section 415(m) benefit participant receiving benefits from the retirement system pursuant to Chapter 169, RSMo is entitled to a monthly benefit under the section 415(m) benefit plan in an amount equal to the section 415(m) benefit participant's unrestricted benefit less the maximum benefit. In no event shall a retiree or beneficiary receive a total monthly benefit from the retirement system and the section 415(m) benefit plan in excess of the monthly benefit he or she would have been entitled to receive from the retirement system under Chapter 169, RSMo without giving effect to the restrictions of section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*.

(3) Any benefit to which a retiree or beneficiary is entitled pursuant to this rule shall be paid at the same time and in the same manner as the benefit would have been paid from the retirement system if the payment of the benefit from the retirement system had not been

precluded by section 169.070.16, RSMo designed to conform to section 415 of Title 26 of the *United States Code*.

(4) Contributions may not be accumulated under the section 415(m) benefit plan to pay future monthly benefits to retirees or beneficiaries. Instead, a portion of each payment of employer contributions that is made to the retirement system under section 169.030, RSMo shall be paid to the section 415(m) benefit plan in an amount necessary to satisfy the monthly obligation to pay section 415(m) benefit participants the amount calculated pursuant to (2) above, as those amounts become due, and may include amounts needed to pay reasonable expenses necessary to administer the section 415(m) benefit plan. Employer contributions made to provide section 415(m) benefits pursuant to this rule shall not be commingled with any other assets of the retirement system.

(5) The section 415(m) benefit plan is a separate portion of the retirement system plan qualified pursuant to section 401(a) of Title 26 of the *United States Code* and is maintained solely for the purpose of providing benefits to retirees and beneficiaries that would otherwise exceed the limits imposed by section 415 of Title 26 of the *United States Code*.

(6) A member, retiree, or beneficiary of the retirement system may not directly or indirectly elect to defer compensation or to otherwise purchase benefits pursuant to section 169.070.16, RSMo or this rule.

(7) The section 415(m) benefit plan shall be administered in the same manner as the retirement system pursuant to section 169.020, RSMo.

*AUTHORITY: section 169.020, RSMo 2000.\* Original rule filed Aug. 15, 2001, effective Feb. 28, 2002.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996, 1998.*

### 16 CSR 10-5.080 Recognition of Credit

*PURPOSE: This rule implements the provisions of section 169.569, RSMo, allowing credit from each system named in section 169.569, RSMo, to be combined for the purpose of determining eligibility for retirement from each system.*

(1) The provisions of this rule are to be used solely for the purpose of implementing section



169.569, RSMo, (hereinafter, all chapter and section citations are to the *Revised Statutes of Missouri* unless otherwise indicated).

(2) “System” or “systems” shall mean one (1) or more of the retirement systems created by Chapter 169 and named in section 169.569.1.

(3) The provisions of section 169.569 and this rule shall apply only to individuals with an effective retirement date after June 30, 2003.

(4) An individual may combine service credit from each of the systems with which the individual has at least five (5) years of creditable service to determine eligibility for normal or early retirement with each of the respective systems. Service credit from a system with which the individual has less than five (5) years of service may not be combined with any other service credit under this rule. Service credit may not be combined for any other purpose. Only service credit that is certified by the relevant system may be combined pursuant to this rule. An individual may not combine credit with other credit that is based on the same period of employment.

(5) Prior to receiving a retirement benefit from a system, an individual must comply with all of that system’s requirements related thereto. An individual is not required to terminate employment with employers covered by systems from which the individual is not yet receiving a retirement benefit.

(6) Each system will use its own retirement application. All systems will use a uniform Reciprocity Election form.

(7) Each system from which the individual is eligible to retire after combining service credit pursuant to this rule shall pay its own retirement benefit and shall determine the benefit it is to pay to the individual based only on the service credit the individual has with that system. Each system paying a retirement benefit shall calculate its own final average salary based upon an individual’s salaries on record with that retirement system. Each system paying a retirement benefit shall determine the retirement benefit based on its own applicable statutory provisions.

(8) An individual shall be subject to the working after retirement limitations for each system from which he or she is receiving a retirement benefit. The benefit paid by a system shall be discontinued only if the individual exceeds the working after retirement limitations, if any, of that system due to employment with an

employer covered by that system. In the event of a discontinuance of benefits from one (1) system, the individual may continue to receive a retirement benefit from any system for which he or she has not exceeded that system’s working after retirement limitations.

(9) Service credit may be combined pursuant to this rule only for the purpose of service retirement eligibility and shall not be combined to determine eligibility for any other benefit payable by any system, including, but not limited to disability, surviving spouse and/or children benefits or minimum benefits.

(10) Notwithstanding the provisions of section (9), if, at the time of death, an individual could have elected to retire by combining credit under this rule, the beneficiary of such member may combine credit under this rule to qualify for benefits pursuant to sections 169.070.3(2)(a), 169.326.3, 169.460.14, or 169.670.4(2)(a).

*AUTHORITY: sections 169.020, RSMo 2000 and 169.569, RSMo Supp. 2001.\* Original rule filed July 23, 2002, effective Feb. 28, 2003.*

*\*Original authority: 169.020, RSMo 1945, amended 1951, 1953, 1967, 1973, 1983, 1990, 1995, 1996, 1998 and 169.569, RSMo 2001.*