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# Rules of Retirement Systems

## Division 50—The County Employees’ Retirement Fund Chapter 10—County Employees’ Defined Contribution Plan

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**Title 16—RETIREMENT SYSTEMS**  
**Division 50—The County Employees'**  
**Retirement Fund**  
**Chapter 10—County Employees' Defined**  
**Contribution Plan**

**16 CSR 50-10.010 Definitions**

*PURPOSE: This rule provides the definitions needed to describe the terms of the defined contribution plan authorized by sections 50.1210 to 50.1260, RSMo.*

(1) Whenever used in this Chapter 10, the following terms shall have the meanings as set forth in this rule 16 CSR 50-10.010 unless a different meaning is clearly required by the context:

(A) Account means the individual book-keeping account maintained for each Participant that represents his or her total proportionate interest in the Trust Fund, and shall include the following subaccounts of the Participant: seed account, Board matching account, Employer matching account and rollover account.

(B) Beneficiary means the person, persons, or legal entity entitled to receive benefits under this Plan which become payable in the event of the Participant's death.

(C) Board means the Board of Directors of the County Employees' Retirement Fund.

(D) Code means the *Internal Revenue Code* of 1986, as amended, and includes any regulations thereunder.

(E) Compensation means all salary and other compensation paid by an Employer to a county employee for personal services rendered as a county employee, as shown on the Employee's Form W-2, plus amounts paid by an Employer but excluded from W-2 compensation by reason of Code sections 125, 402(g)(3), 414(h)(2), or 457, but not including travel and mileage reimbursement, and not including compensation in excess of the limit imposed by section 401(a)(17) of the Code.

(F) Employee means any person, an elective or appointive county official or employee regularly employed by a county who is under the direct control and supervision of a county or an elected or appointed county official and who is subject to continued employment, promotion, salary review or termination by a county or an elected or appointed county official and who is compensated directly from county funds and whose position requires the actual performance of duties during not less than one thousand (1,000) hours per calendar year, except county prosecuting attorneys covered under sections 56.800–56.840, RSMo, circuit clerks and

deputy circuit clerks covered under the Missouri State Retirement System and county sheriffs covered under sections 57.949–57.997, RSMo, and employees who received some compensation from the county but who are subject to hiring, supervision, promotion or termination by an entity other than the county such as an extension council or the circuit court.

(G) Employer means each county in the state, except any city not within a county and counties of the first classification with a charter form of government.

(H) 457 Plan means the County Employees' Deferred Compensation Plan described in 16 CSR 50-20.010 et seq.

(I) Hardship means an immediate and heavy financial need of the Participant resulting from:

1. Expenses for medical care described in Code section 213(d), previously incurred by the Participant, the Participant's spouse, or any dependents of the Participant (as defined in Code section 152) or necessary for these persons to obtain medical care described in Code section 213(d));

2. Costs directly related to the purchase of a principal residence for the Participant (excluding mortgage payments);

3. Payment of tuition and related educational fees for the next 12 months of postsecondary education for the Participant, or the Participant's spouse, children, or dependents (as described in Code section 152); or

4. Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence. Payment may not be made in the event that the Hardship is or may be relieved through reimbursement or compensation by insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of deferrals under the 457 Plan.

(J) Hour of Service means each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer.

(K) Investment Manager means any individual or entity described in 16 CSR 50-10.080 who is designated by the Board as having the power to manage, acquire, or dispose of any asset of the Plan in accordance with the provisions of the Plan.

(L) Investment Option means one of the options established by the Board, in which amounts contributed to a Participant's Account may be invested at the Participant's discretion. There is no limit on the type of

investment that the Board may designate as an option.

(M) LAGERS means the Local Government Employees' Retirement System presently codified at sections 70.600 to 70.755, RSMo.

(N) Participant means an Employee or former Employee who has joined the Plan in accordance with rule 16 CSR 50-10.020 and who retains his or her Account under the Plan.

(O) Plan means the County Employees' Defined Contribution Plan as set forth in this Chapter 10 and sections 50.1210 to 50.1260, RSMo.

(P) Plan Year means the calendar year.

(Q) Separation from Service means the severance of a Participant's employment with an Employer for any reason, including retirement or disability.

(R) Trust Fund means the County Employees' Retirement Fund.

(S) Trustee means the entity, or individuals, or committee that is responsible for holding and managing the Trust Fund.

(T) Year of Service means the amount of an Employee's employment as a county employee used to determine the Employee's vested interest in his or her Board matching account and Employer matching account as described in 16 CSR 50-10.070.

*AUTHORITY: sections 50.1000, RSMo Supp. 2001, 50.1210–50.1260, RSMo 2000 and Supp. 2001.\* Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002.*

*\*Original authority: 50.1000, RSMo 1994, amended 1998, 1999, 2001; 50.1210–50.1260, see Missouri Revised Statutes 2000 and Supp. 2001.*

**16 CSR 50-10.020 Participation**

*PURPOSE: This rule defines the class of employees who may become participants in the defined contribution plan.*

On and after January 1, 2000, as an incident to employment or continued employment, each Employee shall become a Participant in the Plan upon the later of i) January 1, 2000 or ii) the date the Employee becomes a member of the pension fund described in 50.1000 to 50.1200, RSMo.

*AUTHORITY: sections 50.1000 and 50.1210, RSMo Supp. 1999.\* Original rule filed May 9, 2000, effective Jan. 30, 2001.*

*\*Original authority: 50.1000, RSMo 1994, amended 1998, 1999; 50.1210, RSMo 1999.*



**16 CSR 50-10.030 Contributions**

*PURPOSE: This rule describes the contributions that may be made to the defined contribution plan, the allocation of those contributions to participants, the source of these contributions, and limitations on the contributions.*

(1) Seed Contribution. Each Employee who is not a member of Local Government Employees' Retirement System (LAGERS) shall make a contribution of seven-tenths of one percent of his or her Compensation to his or her seed account. This contribution shall be made by payroll deduction. Contributions shall commence immediately upon the date the individual becomes an Employee (or January 1, 2000, if later). The seed contribution shall be designated as an employee "pick-up" contribution, as described in section 414(h)(2) of the Code. A Participant may not waive this contribution requirement by opting out of the Plan.

(2) Board Matching Contribution. The Board, in its sole discretion, shall determine if it will make Board matching contributions for a Plan Year and the aggregate amount of the contribution. Such determination shall be made after the close of the Plan Year for which the contribution is made. Each Qualified Participant (as defined in section (3) below) who makes contributions to the 457 Plan during the Plan Year for which the Board matching contribution is made shall be eligible to receive an allocation of this Board matching contribution. Generally, the Board shall allocate Board matching contributions *pro rata* to the Qualified Participant's Board matching account, on the basis of a Qualified Participant's contributions to the 457 Plan. However, the Board shall follow these rules in making this allocation:

(A) Contributions allocated to a Qualified Participant who is not a member of LAGERS shall equal the least of: i) three percent (3%) of such non-LAGERS member's Compensation for the Plan Year, ii) fifty percent (50%) of such non-LAGERS member's contributions to the 457 Plan, or iii) the matching percentage designated by the Board for the Plan Year, multiplied by the Qualified Participant's contributions to the 457 Plan for the Plan Year.

(B) Contributions allocated to a Qualified Participant who is a member of LAGERS shall equal the least of: i) one and one-half percent (1.5%) of such LAGERS member's Compensation for the Plan Year, ii) twenty-five percent (25%) of such LAGERS member's contributions to the 457 Plan, or iii)

one-half of the matching percentage designated by the Board for the Plan Year, multiplied by the Qualified Participant's contributions to the 457 Plan for the Plan Year.

(C) If a Board matching contribution is made for a Plan Year, it shall be allocated to the Participant's Board matching account as soon as administratively feasible after the close of the Plan Year without regard to any earnings or losses from the close of the Plan Year until the date such allocation is made.

(D) Each Qualified Participant's Employer shall submit information and records to the Board with respect to the amount of such Qualified Participant's contributions to the 457 Plan for a Plan Year no later than February 28 following the close of such Plan Year. The amount of Board matching contributions to any Qualified Participant's Board matching account for a Plan Year shall be based upon such information and records, and shall not be adjusted upward if the information or records submitted by the Qualified Participant's Employer subsequently are shown to be incomplete or inaccurate, or if additional 457 Plan contributions are subsequently deposited by the Qualified Participant's Employer for such Plan Year; provided, however, the Board will be entitled to recover (either by reducing the Qualified Participant's Board matching account balance or, in the event such balance has been distributed, directly from the Qualified Participant) any amounts overcredited to the Qualified Participant's Board matching account (and earnings thereon) if a Qualified Participant's Employer has filed inaccurate records or information regarding the amount of a Qualified Participant's contributions to the 457 Plan.

(3) A Participant is a "Qualified Participant" for a Plan Year, if he or she is employed by an Employer and:

(A) Is employed on the last day of the Plan Year and has earned 1,000 Hours of Service during the Plan Year;

(B) Is on a leave of absence taken under the Family and Medical Leave Act of 1993 on the last day of the Plan Year or, as of the last day of the Plan Year, is on an absence for sickness or injury of less than 12 months, that is counted as Creditable Service under 16 CSR 50-5.030;

(C) Dies during the Plan Year; or

(D) Retires during the Plan Year. "Retirement," for this purpose, means termination of employment after attainment of age 62 after having become fully vested in accordance with rule 16 CSR 50-10.070.

(4) Source of Board Matching Contributions. The source of Board matching contributions

(if made) shall be the funds described in sections 50.1020, 50.1190 and 50.1200, RSMo. Such funds shall be held in a separate trust (which shall be exempt from federal income tax in accordance with section 115 of the Code) until the Board determines whether all such funds must be contributed to the pension plan described in sections 50.1000 to 50.1200, RSMo to maintain the actuarial sufficiency of such plan or whether a portion of these funds may be contributed to the Plan described in this Chapter 10.

(5) Employer Matching Contributions. Each Employer, in its sole discretion, shall determine if it will make Employer matching contributions for any Plan Year beginning after December 31, 2001.

(A) An Employer may elect, before or as soon as possible before the beginning of each Plan Year, to make Employer matching contributions for the Plan Year by transmitting minutes of the meeting of the county commission or other governing body at which Employer matching contributions are authorized for such Plan Year to the Board within thirty (30) days of such meeting. Any such election shall not apply to subsequent Plan Years.

(B) The election made by any Employer under subsection (5)(A) shall set forth the rate, method or rules to be used by the Employer for making Employer matching contributions for the Plan Year.

1. If the Employer's election is made after the beginning of the Plan Year, it shall specify whether retroactive Employer matching contributions shall be made with respect to contributions made to the 457 Plan prior to such election.

2. The rate, method or rules for making Employer matching contributions specified in the Employer's election may not be changed during the Plan Year; provided that the Employer may at any time during the Plan Year, by notifying the Board, prospectively terminate Employer matching contributions otherwise allocable with respect to contributions made to the 457 Plan after the date of such notice. An Employer which terminates Employer matching contributions for any Plan Year may elect to make Employer matching contributions for any subsequent Plan Year.

(C) Each Qualified Participant (as defined in section (3) above) who is employed by an Employer and makes contributions to the 457 Plan during a Plan Year for which such Employer has elected to make Employer matching contributions shall be eligible to receive an allocation of such Employer matching contributions.



(D) If Employer matching contributions are made for a Plan Year by any Employer, such contributions shall be sent by such Employer directly to the Trustee no later than the end of the first quarter of the following Plan Year, and shall be allocated to the Employer matching account of each Qualified Participant eligible to receive an allocation of such Employer matching contributions as soon as administratively feasible thereafter.

(6) Rollover Contributions. The Plan shall accept a cash rollover contribution (within the meaning of the first sentence of Code section 402(c)(2) and Code sections 403(b)(8) (excluding after-tax employee contributions) and 408(d)(3)(A), including optional direct transfers under Code section 401(a)(31)) on behalf of a Participant, from any plan qualified under Code section 401(a), an annuity contract described in Code section 403(b) and any individual retirement account meeting the requirements of Code section 408(d)(3)(A)(ii). The Board (or its designee) may require a Participant to submit evidence that all of a contemplated contribution constitutes proceeds of an "eligible rollover distribution" (as described in Code section 402(c)(4)) or a "rollover contribution" (as described in Code section 408(d)(3)(A)(ii)) before allowing the Participant to make a contribution under this section.

(7) 415 Limitation. As of the close of a Plan Year, the Board shall determine whether contributions to the Plan have been made, which exceed the limitations of Code section 415(c). The Board shall use W-2 compensation (as defined in 26 CFR 1.415-2(d)(11)(i)) in making this determination, except that the Board shall include amounts excluded from W-2 compensation by reason of Code sections 125, 402(g)(3), 457 and, effective for Plan Years beginning on or after January 1, 2001, 132(f)(4). If, as a result of the allocation for forfeitures or a reasonable error in estimating a Participant's annual compensation, the annual addition to a Participant's Account exceeds the maximum permitted, i) Board matching contributions constituting excess annual additions (and any gains on those contributions) shall first be forfeited and applied to reduce the Board matching contribution obligation for the Plan Year in which the forfeiture occurs, and ii) if necessary, Employer matching contributions constituting excess annual additions (and any gains on those contributions) shall then be forfeited and applied to reduce the Employer matching contribution obligation for such Employer for the Plan Year in which the forfeiture occurs.

(8) Reemployed Veterans. If a Participant terminates employment to serve in a uniformed service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994) and returns to the employ of an Employer before his or her statutory reemployment rights expire, then:

(A) The Participant shall be permitted to make the seed contributions he would have been able to make except for the fact that he was in a uniformed service; and

(B) The Employer shall match the Participant's make-up contributions under the 457 Plan in the manner those contributions would have been matched had they been made during the Participant's stint in a uniformed service.

*AUTHORITY: sections 50.1220, RSMo 2000 and 50.1230, RSMo Supp. 2001.\* Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002. Amended: Filed Sept. 10, 2002, effective April 30, 2003.*

*\*Original authority: 50.1220, RSMo 1999; 50.1230, RSMo 1999, amended 2001.*

#### 6 CSR 50-10.040 Accounts of Participants

*PURPOSE: This rule describes the accounting for a participant's interest in the defined contribution plan and the investment of a participant's account.*

(1) Account for Each Participant. An individual bookkeeping Account shall be maintained for each Participant, to record his or her interests under the Plan. Each Account shall be divided into the following subaccounts to track contributions, investment earnings and losses, and expense charges:

(A) A seed account for seed contributions pursuant to rule 16 CSR 50-10.030(1);

(B) A Board matching account for Board matching contributions pursuant to rule 16 CSR 50-10.030(2);

(C) An Employer matching account for Employer matching contributions pursuant to rule 16 CSR 50-10.030(5);

(D) A rollover account for rollover contributions pursuant to rule 16 CSR 50-10.030(6); and

(E) Any other subaccounts as the Trustee, Board, or Investment Manager deems necessary to keep track of a Participant's interests under the Plan.

(2) Investments. If the Board establishes a directed investment program, a Participant may request that his or her Account (and the contributions allocated to his or her Account)

be allocated among the Investment Options made available by the Board. The initial allocation request shall be made at the time an Employee becomes a Participant. Once made, an investment allocation request shall remain in effect for all contributions allocated to the Participant's Account until changed by the Participant. A Participant may change his or her investment allocation by submitting a request to the Board (or its designee) in such form as may be permitted by the Board (or its designee). Such changes shall become effective as soon as administratively feasible after the Board (or its designee) receives such request. If the Participant fails to make an investment allocation request at the time of his or her enrollment, the Participant's Account shall be invested in default Investment Options selected by the Board, until such time as the Participant submits an investment allocation request.

*AUTHORITY: section 50.1240, RSMo 2000.\* Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002.*

*\*Original authority: 50.1240, RSMo 1999.*

#### 16 CSR 50-10.050 Distribution of Accounts

*PURPOSE: This rule describes the timing and form of benefit payments from the defined contribution plan.*

(1) Eligibility for Payment. Generally, distribution to a Participant of his or her vested Account shall be made no earlier than Separation from Service. However, a Participant may request withdrawal of all or a portion of his or her Board matching account, his or her Employer matching account and his or her rollover account before Separation from Service after attainment of age fifty-nine and a half (59 1/2). Such withdrawals shall be made first from the Participant's rollover account, then from the vested portion of his or her Board matching account, and finally from the vested portion of his or her Employer matching account.

(2) Distribution Due to Hardship. A Participant may request a distribution due to Hardship by submitting a request to the Board (or its designee) in such form as may be permitted by the Board (or its designee). The Board (or its designee) shall have the authority to require such evidence as it deems necessary to determine if a distribution is warranted. If an application for a distribution due to a Hardship is approved, the distribution is limited to the lesser of—



(A) An amount sufficient to meet the need, less the value of the Participant's account in the 457 Plan; or

(B) The amount held in the Participant's rollover account.

The amount of the need shall include any amounts necessary to pay any federal, state or local income taxes (including withholding) or penalties reasonably anticipated to result from the distribution. The allowed distribution shall be paid in a single sum to the Participant as soon as administratively feasible after approval of such distribution.

(3) Commencement of Distributions.

(A) General Rule. Distribution of a Participant's Account under the Plan shall be made in a single sum as soon as administratively feasible after the Participant's Separation from Service occurs, unless the Participant elects to defer this payment. A Participant may elect that the single-sum distribution of benefits be made at any time following his or her Separation from Service as long as distributions commence no later than 60 days following the date on which the Participant attains age 70 1/2, or retires, if later.

(B) Notwithstanding subsection (3)(A), if the value of a Participant's Account is five thousand dollars (\$5,000) or less at the time of the Participant's Separation from Service (without respect to any Board matching contributions or Employer matching contributions which might be allocated following the Participant's Separation from Service), then his or her benefit under the Plan shall be distributed to the Participant in a single sum as soon as administratively feasible following his or her Separation from Service.

(C) Employees who terminate employment and then resume employment with an Employer within 30 days will not forfeit their prior service and will not be required to receive a refund of their payroll contributions.

(D) In the event a Qualified Participant's Account is distributed upon such Participant's death or retirement and a Board contribution or Employer matching contribution is later allocated to such Qualified Participant's Account for any Plan Year, a subsequent distribution of such Account shall be made as soon as administratively feasible after such matching contribution allocation has been made.

(4) Direct Rollover Option.

(A) A distributee may elect to have an eligible rollover distribution paid directly to a single eligible retirement plan specified by the distributee. However, this election may not be made if the total eligible rollover dis-

tributions paid to the distributee from the Plan will be less than \$200.

(B) A distributee may elect to divide an eligible rollover distribution so that part is paid directly to an eligible retirement plan and part is paid to the distributee. However, the part paid directly to the eligible retirement plan must total at least \$500.

(C) A distributee may elect a direct rollover after having received a written notice which complies with the rules of Code section 402(f). In general, payment to a distributee shall not begin until 30 days after the section 402(f) notice is given. However, payment may be made sooner if the notice clearly informs the distributee of the right to a period of at least 30 days to consider the decision of whether or not to make a direct rollover, and the distributee, after receiving the notice, makes an affirmative election to receive an immediate distribution. A distributee who fails to make an election in the 30-day period shall receive the eligible rollover distribution immediately after the 30-day period expires.

(D) For purposes of this section (4), the following terms have the meanings set forth below:

1. An "eligible rollover distribution" is any distribution or withdrawal payable under the terms of this Plan to a Participant, which is described in Code section 402(c)(4). In general, this term includes any single-sum distribution, and any distribution which is one (1) in a series of substantially equal periodic payments made over a period of less than ten (10) years, and is less than the distributee's life expectancy. However, an eligible rollover distribution does not include the portion of any distribution which constitutes a minimum required distribution under Code section 401(a)(9) or, after December 31, 2001, any distribution due to Hardship. Such term also does not include a distribution to the Participant's Beneficiary, unless the Beneficiary is the Participant's spouse.

2. For Plan Years beginning after December 31, 2001, "eligible retirement plan" means—

A. An individual retirement account described in Code section 408(a);

B. An individual retirement annuity described in Code section 408(b);

C. An annuity plan described in Code section 403(a); and

D. A retirement plan qualified under Code section 401(a), but only if the terms of the plan permit the acceptance of rollover distributions.

E. An annuity contract described in Code section 403(b); and

F. An eligible deferred compensation plan under Code section 457(b) which 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 and which agrees to separately account for amounts transferred into such plan from this Plan.

3. "Distributee" means a Participant or the spouse of a deceased Participant.

(5) Compliance with Code Section 401(a)(9). Regardless of any contrary provision in the Plan, any distribution shall be determined in accordance with Code section 401(a)(9) and, with respect to distributions under the Plan made in calendar years beginning on or after January 1, 2002, the regulations thereunder that were proposed in January 2001. Accordingly, distribution of a Participant's Account shall be made no later than the April 1 of the calendar year following the later of—

(A) The calendar year in which the Participant attains age 70 1/2; or

(B) The calendar year in which the Participant retires.

(6) Return of Mistaken Payments. Notwithstanding anything to the contrary, a Participant or Beneficiary is entitled to only those benefits provided by the Plan and promptly shall return any payment, or portion thereof, made by mistake of fact or law. The Board may offset the future benefits of any recipient who refuses to return an erroneous payment, in addition to pursuing any other remedies provided by law.

(7) Forfeitures. If a Participant has a Separation from Service and is not vested in his or her Board matching account and Employer matching account, he/she shall forfeit the non-vested portion of the Board matching account and Employer matching account upon the Separation from Service.

(A) The forfeiture of a Participant's Board matching account shall be applied to reduce Board matching contributions for the Plan Year in which distribution occurs.

(B) The forfeiture of a Participant's Employer matching account shall be applied to reduce Employer matching contributions by the Employer to which such Employer matching account is attributable for the Plan Year in which distribution occurs. If any such Employer has not elected to make matching contributions for such Plan Year, such forfeiture shall be allocated *pro rata* to Qualified Participants (as defined in 16 CSR 50-10.030(3)) employed by that Employer based on their contributions to the 457 Plan for that Plan Year.



(8) Lost Participants. Notwithstanding any other provision of the Plan, if it is not possible to make payment because the Board cannot locate the Participant after making reasonable efforts to so do, a retroactive payment may be made as soon as administratively feasible after the date on which the Participant is located.

(A) If the Board is unable to locate any person entitled to receive distribution from an Account hereunder, such Account shall be forfeited, the seed account, Board matching account and rollover account shall be used to reduce Board matching contributions and the Employer matching account shall be used to reduce to Employer matching contributions by the Employer to which it is attributable on the date two (2) years after the date the Board sends by certified mail a notice concerning the benefits to such person at his or her last known address (or determines that there is no last known address).

(B) If an Account is forfeited under this Section and a person otherwise entitled to the Account subsequently files a claim with the Board during any Plan Year, before any allocations for such Plan Year are made, the Account will be restored to the amount which was forfeited without regard to any earnings or losses that would have been allocated. Such restoration shall first be taken out of forfeitures which have not been allocated and if such forfeitures are insufficient to restore such person's account balance, restoration shall be made by an Employer contribution to the Plan.

*AUTHORITY: sections 50.1250, RSMo Supp. 2001 and 50.1260, RSMo 2000.\* Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002.*

*\*Original authority: 50.1250, RSMo 1999, amended 2001; 50.1260, RSMo 1999.*

#### 16 CSR 50-10.060 Death Benefits

*PURPOSE: This rule describes the benefits available to a Participant's Beneficiary upon his or her death and the procedure for designating a beneficiary.*

(1) Death Benefit. As soon as administratively feasible following the death of a Participant, the Participant's Beneficiary shall receive a single-sum distribution of the Participant's entire remaining Account balance.

(2) Beneficiary Designation. A Participant shall have the right to designate a Beneficiary, and amend or revoke such designation at any time, in writing. Such designation,

amendment or revocation shall be effective upon receipt by the Board (or its designee).

(3) Failure to Designate a Beneficiary. If no designated Beneficiary survives the Participant (or if no Beneficiary designation has been received or approved by the Board) and benefits are payable following the Participant's death, the Board shall direct that payment of benefits be made to—

- (A) The spouse of the Participant; or
- (B) The Participant's estate.

(4) Direct Rollover. If the Participant's Beneficiary is his or her spouse, the direct rollover provisions shall apply to a distribution in accordance with this rule.

*AUTHORITY: section 50.1250, RSMo Supp. 1999.\* Original rule filed May 9, 2000, effective Jan. 30, 2001.*

*\*Original authority: 50.1250, RSMo 1999.*

#### 16 CSR 50-10.070 Vesting and Service

*PURPOSE: This rule describes when a Participant vests in his or her defined contribution plan account.*

(1) Vesting. A Participant's interest in his or her Board matching account and Employer matching account shall become fully vested and nonforfeitable upon his or her completion of five (5) Years of Service, or upon the Participant's death (if the Participant dies before his or her Separation from Service). A Participant shall always be one hundred percent (100%) vested in his or her seed and rollover accounts.

(2) "Years of Service" means the total time of an Employee's employment as a county employee with any Employer, measured in years. With respect to county employment before January 1, 2000, Years of Service shall be the Participant's creditable service, as determined in accordance with section 50.1090, RSMo, and regulations issued under the authority of that section, unless that period is excluded under section (3). With respect to county employment on or after January 1, 2000, the Participant shall receive credit for a Year of Service for each Plan Year in which he/she completes 1,000 Hours of Service, unless that period is excluded under section (3). Additionally, a period of employment in a uniformed service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994) shall constitute Years of Service, if the Participant was an Employee before his or her employment in

the uniformed service and he/she returns to employment with an Employer before his or her reemployment rights under the statute expire.

(3) The following periods do not constitute Years of Service, regardless of any provision in this rule 16 CSR 50-10.070 to the contrary:

(A) A Plan Year beginning on or after January 1, 2000, in which an Employee earns less than 1,000 Hours of Service, unless the failure to earn such Hours of Service was the result of a leave described in the Family and Medical Leave Act of 1993; and

(B) A rehired Employee's period of employment before his or her immediately preceding Separation from Service, unless the Participant was either: i) vested in his or her matching account at the time of the Separation from Service, ii) if his or her Separation from Service occurred before January 1, 2000, the Participant was fully vested within the meaning of section 50.1140(1), RSMo at the time of the Separation from Service, or iii) such prior period is determined to be part of the Participant's creditable service, in accordance with section 50.1090, RSMo, and regulations issued under the authority of that section.

(4) Upon the termination of the plan or complete discontinuance of contributions, all participants' accounts shall become fully vested, and not thereafter be subject to forfeiture.

*AUTHORITY: sections 50.1090, RSMo 2000 and 50.1250, RSMo Supp. 2003.\* Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002. Amended: Filed July 13, 2004, effective Jan. 30, 2005.*

*\*Original authority: 50.1090, RSMo 1994, amended 1998, 1999 and 50.1250, RSMo 1999, amended 2001, 2004.*

#### 16 CSR 50-10.080 Plan Administration

*PURPOSE: The purpose of this rule is to outline the administrative procedures and responsibilities for the defined contribution plan.*

(1) Plan Administrator. The management of the Plan shall be vested in the Board according to the provisions in sections 50.1000 to 50.1260, RSMo, as such Board is established in section 50.1030, RSMo. The Board shall have all powers necessary to effect the management and administration of the Plan in accordance with its terms, including, but not limited to, the following:



(A) To establish rules and regulations for the administration of the Plan, for managing and discharging the duties of the Board, for the Board's own government and procedure in so doing, and for the preservation and the protection of the assets of the Plan.

(B) To interpret the provisions of the Plan and to determine any and all questions arising under the Plan or in connection with the administration thereof. A record of such action and all other matters properly coming before the Board shall be kept and preserved.

(C) To determine all considerations affecting the eligibility of any person to be or become an Employee and Participant of the Plan.

(D) To determine the amount of the Participant's contributions to be withheld by the Employer in accordance with the Plan and to maintain records of such contributions as are necessary under the Plan.

(E) To determine Years of Service of any Participant and to compute the amount of the Account balance, or other sum, payable under the Plan to any person.

(F) To authorize and direct all disbursements of Participant Accounts under the Plan and payment of the Plan expenses.

(G) To make valuations of assets held under the Plan.

(H) To employ such counsel and agents, and to obtain such clerical, medical, legal, accounting, investment advisory, custodial and other services as it may deem necessary or appropriate in carrying out the provisions of the Plan.

The decisions of the Board and any action taken by it in respect to the management of the Plan shall be conclusive and binding upon any and all Employees, officials, former Employees and officials, Participants, their Beneficiaries, heirs, distributees, executors, administrators and assigns and upon all other persons whomsoever.

(2) Amendment of Plan. The Board shall have the right to amend the Plan through amendment of this Chapter 10, at any time and from time to time, in whole or in part, provided such regulations do not conflict with the provisions of sections 50.1210 to 50.1260, RSMo.

(3) Trust Fund.

(A) General Rule. The assets of the Plan shall be held as a part of the Trust Fund, and shall share in the gains and losses of the Trust Fund. The value of a Participant's Account shall be determined as of each business day, in accordance with generally accepted accounting procedures.

(B) Directed Investment Program. The Board may permit Participants to direct

investments in accordance with 16 CSR 50-10.040(2). If the Board establishes such a program, the assets of the Plan shall continue to be part of the Trust Fund. However, the Board shall appoint an Investment Manager who shall have power to manage, acquire, or dispose of any Plan asset in accordance with the directed investment program described in 16 CSR 50-10.040(2). The Trustee shall not be under any obligation to invest or otherwise manage any asset of the Plan which is subject to the management of the Investment Manager.

(C) Investment Manager. The Board may select the following entities as Investment Manager:

1. An investment adviser described in the Investment Advisers Act of 1940;
2. A bank, as described in such act; or
3. An insurance company qualified to perform asset management services under the laws of more than one state.

(D) Gains and Losses of the Trust Fund. In the event the Account of a Participant is held by an Investment Manager, the "gains and losses of the fund" with respect to that Account shall be considered to be the investment returns directly attributable to the Investment Options selected by the Participant (or the Investment Manager) in accordance with 16 CSR 50-10.040(2).

(4) Plan Expenses. All expenses of Plan administration, including (by way of illustration and not limitation) those incurred by the Board and the fees of the Trustee shall be paid from the assets of the Plan.

(5) Claims for Benefits. A claim for a benefit under this Plan shall be reviewed by the Board (or by its designee) in accordance with the procedure outlined in 16 CSR 50-1.015. An appeal of an adverse claim decision shall be processed in accordance with 16 CSR 50-1.020.

*AUTHORITY: sections 50.1010, RSMo 1994 and 50.1240, RSMo Supp. 1999.\* Original rule filed May 9, 2000, effective Jan. 30, 2001.*

*\*Original authority: 50.1010, RSMo 1994; 50.1240, RSMo 1999.*

**16 CSR 50-10.090 Miscellaneous Defined Contribution Plan Rules**

*PURPOSE: The purpose of this rule sets forth miscellaneous provisions relating to the defined contribution plan.*

(1) Limitation of Rights: Employment Relationship. Neither the establishment of this Plan nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, nor any action taken thereunder nor any omission to act, shall be construed as giving a Participant or other person any legal or equitable right against an Employer except as provided in the Plan. In no event shall the terms of employment of any employee be modified or in any way be affected by the Plan.

(2) Benefits under this Plan may not be assigned, sold, transferred, or encumbered, and any attempt to do so shall be void. A Participant's or Beneficiary's Account shall not be subject to debts or liabilities of any kind and shall not be subject to attachment, garnishment or other legal process.

(3) Representations. The Board does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, the Board does not represent or guarantee successful investment of the Participant's Account and shall not be required to restore any loss which may result from such investment or lack of investment.

(4) Severability. If a court of competent jurisdiction holds any provision of this Chapter 10 to be invalid or unenforceable, the remaining provisions of the Chapter shall continue to be fully effective.

(5) The provisions of this Chapter 10 shall be construed in accordance with sections 401(a) and 501(a) of the Code, all other applicable Federal Law, and, to the extent such other statutes do not apply, the laws of the State of Missouri.

(6) The Plan described in this Chapter 10 is intended to be a profit-sharing plan.

*AUTHORITY: sections 50.1010, RSMo 1994 and 50.1210-50.1260, RSMo Supp. 1999.\* Original rule filed May 9, 2000, effective Jan. 30, 2001.*

*\*Original authority: 50.1010, RSMo 1994; 50.1210-50.1260, see Missouri Revised Statutes 2000.*