



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. Effective January 1, 2009, in accordance with section 414(u)(12) of the Code, compensation shall include any differential wage payment (within the meaning of section 3401(h)(2) of the Code) made by the Employer to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of section 414(u)(5) of the Code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer. Notwithstanding the foregoing, compensation shall only include amounts paid during an employee's employment, except as provided in the remainder of

this paragraph. To the extent that the following amounts are otherwise included in the definition of compensation and are paid no later than the date which is two and one-half (2 ½) months after termination of employment, or, if later, the end of the plan year in which such termination occurs, such amounts paid after an employee's termination of employment shall be deemed compensation: regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses, or other similar payments; and payment for unused accrued sick, vacation, or other leave, but only if the employee would have been able to use the leave if employment had continued. The exclusions provided for in the first sentence of this paragraph with respect to post-employment payments shall not apply to payments to an individual who does not currently perform services for the Employer by reason of qualified military service, to the extent such payments do not exceed the compensation such individual would have received from the Employer if he or she had continued to perform services for the Employer.

(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: section 50.1000, RSMo Supp. 2009 and sections 50.1210-50.1260, RSMo 2000 and Supp. 2009. Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002. Amended: Filed Dec. 22, 2008, effective July 30, 2009. Amended: Filed Jan. 25, 2010, effective July 30, 2010.*

**Original authority: 50.1000, RSMo 1994, amended 1998, 1999, 2001; 50.1210-50.1260, see Missouri Revised Statutes 2000 and Supp. 2008.*

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 may be made during or 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) Contribution allocation to a Qualified Participant shall equal the least of: i) three percent (3%) of such member's Compensation for the Plan Year, ii) fifty percent (50%) of such 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) If a Board matching contribution is made for a Plan Year, it shall be allocated to the Participants' 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.

(C) 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) Has earned one thousand (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 twelve (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 sixty-two (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 compensation within the meaning of Code section 415(c)(3) (i.e., amounts reported in Box 1 of Form W-2, plus amounts that would have been received and included in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)), but not in excess of two hundred thirty thousand dollars (\$230,000) (as adjusted in accordance with section 401(a)(17)(B) of the Code) for any Plan Year, limitation year, or calendar year, as applicable, in making this determination. Such remuneration shall not include any severance pay, whether paid before or after an Employee's termination of employment. In addition, such amount shall not include other compensation paid after an individual's termination of employment; provided that, to the extent that the following amounts are otherwise included in the definition of remuneration and are paid no later than the date which is two and one-half (2 1/2) months after termination of employment, or, if later, the end of the limitation year in which such termination occurs, such amounts paid after an Employee's termination of employment shall be deemed remuneration: i) regular pay, including compensation for services during regular working hours, overtime, shift differential, commissions, bonuses, or other similar payments; and ii) payment for unused accrued sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued, and payment received pursuant to a nonqualified, unfunded deferred compensation plan sponsored by the Employer, but only if the Employee would have received the payment at the same time if employment had continued and only to the extent the payment is includible in the Employee's gross income. The exclusions provided for in this paragraph with respect to post-employment payments shall not apply to payments to an individual who does not currently perform services for the Employer by reason of qualified military service, to the extent such payments do not exceed the compensation such individual would have received from the Employer if he or she had continued to perform services for the Employer. 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 con-

tributions) 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 and 50.1260, RSMo 2000 and sections 50.1230 and 50.1250, RSMo Supp. 2008. 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. Amended: Filed Nov. 10, 2005, effective May 30, 2006. Amended: Filed Sept. 17, 2007, effective March 30, 2008. Amended: Filed Dec. 22, 2008, effective July 30, 2009.*

**Original authority: 50.1220, RSMo 1999; 50.1230, RSMo 1999, amended 2001; 50.1250, RSMo 1999, amended 2001, 2004, 2007; and 50.1260, RSMo 1999.*

16 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; or

(B) The amount held in the Participant's Account, including all subaccounts, to the extent the Participant is vested in such amounts.

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 and Payment Options.

(A) General Rule. Distribution of a Participant's Account under the Plan shall be made in the form elected by the Participant, commencing 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 distribution of benefits be made at any time following his or her Separation from Service as long as distributions commence no later than sixty (60) days following the date on which the Participant attains age seventy and one-half (70 1/2), or retires, if later.

(B) Notwithstanding subsection (3)(A), if the value of a Participant's Account is one thousand dollars (\$1,000) 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 thirty (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 Separation from Service, 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 if such Participant is fully vested.

(E) Payment Options. A Participant's election of a payment option must be made at least thirty (30) days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in a single lump sum. Once payments have commenced, the form of payment option may not be changed.

(F) Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one (1) of the following payment options:

1. A single lump-sum payment;

2. Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis) which extends no longer than the life expectancy of the Participant;

3. Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in paragraph (3)(F)2., as long as such installment payments begin prior to the end of the calendar year following the year the partial lump-sum payment was made; and

4. Annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the Participant or for the lifetimes of the Participant and Beneficiary if permitted under section 401(a)(9) of the Code.

(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 distributions 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 or Participant’s Beneficiary, 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.

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);

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);

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 which agrees to separately account for amounts transferred into such plan from this Plan; and

G. Effective January 1, 2008, a Roth IRA described under Code section 408A, to the extent permitted by applicable law.

3. “Distributee” means a Participant or the spouse of a deceased Participant. Effective January 1, 2007, a Participant’s designated non-spouse Beneficiary may be a distributee but only with respect to an eligible

retirement plan described in subparagraphs (4)(D)2.A. and B. above.

(5) Compliance with Code Section 401(a)(9). Notwithstanding anything to the contrary contained in the Plan, the entire interest of a Participant will be distributed in accordance with a reasonable and good faith interpretation of Code section 401(a)(9) and the regulations thereunder beginning no later than the participant’s required beginning date. The provisions of this section will apply for purposes of determining required minimum distributions in accordance with a reasonable and good faith interpretation. Notwithstanding the other provisions of this section, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.

(A) If the Participant dies before distributions begin, the Participant’s entire interest will be distributed, or begin to be distributed, no later than as follows:

1. If the Participant’s surviving spouse is the Participant’s sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70 1/2), if later.

2. If the Participant’s surviving spouse is not the Participant’s sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

3. If there is no designated beneficiary as of September 30 of the year following the year of the Participant’s death, the Participant’s entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant’s death.

4. If the Participant’s surviving spouse is the Participant’s sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection, other than paragraph (A)1., will apply as if the surviving spouse were the Participant.

5. For purposes of this subsection, unless paragraph (A)4. applies, distributions are considered to begin on the Participant’s required beginning date. If paragraph (A)4. applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under paragraph

(A)1. To the extent the Plan provides for distributions in the form of annuities, if distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant’s required beginning date (or to the Participant’s surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (A)1.), the date distributions are considered to begin is the date distributions actually commence.

(B) Unless the Participant’s interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsections (C) and (D). To the extent the Plan provides for distributions in the form of annuities, if the Participant’s interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury regulations.

(C) During the Participant’s lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

1. The quotient obtained by dividing the Participant’s account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant’s age as of the Participant’s birthday in the distribution calendar year; or

2. If the Participant’s sole designated beneficiary for the distribution calendar year is the Participant’s spouse, the quotient obtained by dividing the Participant’s account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant’s and spouse’s attained ages as of the Participant’s and spouse’s birthdays in the distribution calendar year.

3. Required minimum distributions will be determined beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant’s date of death.

(D) If the Participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant’s death is the quotient obtained by dividing the Participant’s account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant’s designated Beneficiary, determined as follows:



1. The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one (1) for each subsequent year.

2. If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one (1) for each subsequent calendar year.

3. If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one (1) for each subsequent year.

4. If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one (1) for each subsequent year.

(E) If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in subsection (D). If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph (A)1., this section will

apply as if the surviving spouse were the Participant.

(F) The following definitions shall apply for purposes of this section:

1. Designated beneficiary shall mean the individual who is designated as the beneficiary under the terms of the Plan and is the designated beneficiary under Code section 401(a)(9) and section 1.401(a)(9)-1, Q&A-4 of the Treasury regulations.

2. A distribution calendar year is a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection (A). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

3. Life expectancy means an individual's life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

4. The Participant's account balance is the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

5. The Participant's required beginning date is the April 1 of the calendar year following the later of (a) the calendar year in which the Participant attains age seventy and one-half (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: section 50.1250, RSMo Supp. 2009 and section 50.1260, RSMo 2000. Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed April 25, 2002, effective Nov. 30, 2002. Amended: Filed Aug. 24, 2004, effective March 30, 2005. Amended: Filed April 27, 2005, effective Oct. 30, 2005. Amended: Filed Nov. 10, 2005, effective May 30, 2006. Amended: Filed Aug. 14, 2006, effective March 30, 2007. Amended: Filed Sept. 8, 2008, effective March 30, 2009. Amended: Filed March 31, 2009, effective Sept. 30, 2009. Amended: Filed Jan. 25, 2010, effective July 30, 2010.*

**Original authority: 50.1250, RSMo 1999, amended 2001, 2004, 2007 and 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. The direct rollover provisions shall apply to a distribution made in accordance with this rule to the extent provided by the Plan and applicable law.

(5) Death During Military Service. Effective January 1, 2007, where a Participant dies

while performing qualified military service (as defined by section 414(u) of the Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service), and the rights and features accompanying those benefits, provided under the Plan that would be available under the Plan had the Participant resumed and then terminated employment on account of death. Notwithstanding anything herein to the contrary, the Plan shall be administered to comply with the Heroes Earnings Assistance and Tax Relief Act of 2008 to the extent required therein.

AUTHORITY: section 50.1250, RSMo Supp. 2009. Original rule filed May 9, 2000, effective Jan. 30, 2001. Amended: Filed Jan. 25, 2010, effective July 30, 2010.*

**Original authority: 50.1250, RSMo 1999, amended 2001, 2004, 2007.*

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.*