NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 15

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR
PURCHASE OF SERVICE AND MILITARY SERVICE CREDIT

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 15 – PURCHASE OF SERVICE AND MILITARY SERVICE CREDIT

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 15 – PURCHASE OF SERVICE AND MILITARY SERVICE CREDIT

001 Scope of the Rule

The provisions of this regulation apply to members of the Nebraska Retirement Systems which are the Judges, State Patrol and School Retirement Systems and the State and County Employees Retirement Systems.

002 General Provisions

~~001.01~~ 002.01 The Nebraska Public Employees Retirement Systems ('NPERS'), ~~referred to as the Retirement Office~~, is the agency under the direction of the Public Employees Retirement Board, referred to as the Retirement Board, which is responsible for administering the various purchase of service provisions in the statutes governing the Nebraska Retirement Systems.

~~001.02~~ 002.02 For purposes of determining eligibility for purchase of service, a member, school employee, officer or judge shall mean a person working for a covered employer and contributing to their respective retirement systems.

~~001.03~~ 002.03 Covered employer for purposes of this regulation shall mean any Nebraska public school, Classes I to IV and VI; participating county; or participating state agency.

~~001.04~~ 002.04 For interest based purchases the interest rate used to determine the one-time cost of purchasing service shall be the annual rate of regular interest accrued on member accounts as determined annually for each retirement system by the Retirement Board or the actuarially assumed rate used by the School Retirement System Plan depending on when the member applies for purchases. If the member is required to pay the actuarial cost as determined by the actuarial assumptions of each plan, the actuarial determination shall apply. If payments are made on the installment method then an additional finance charge will be assessed as defined.

~~001.05~~ 002.05 For the School Retirement System Plan, actuarial cost shall mean the full cost of purchasing service allowed by law as determined by the actuary under contract with the Retirement Board ~~for the State~~. The full cost of purchasing service shall be calculated based on the increase in the actuarial accrued liability resulting from the purchase of service assuming the member is actively employed until age sixty-five (65). The actuarial assumptions used when determining the cost shall be those adopted by the Retirement Board ~~for the School Retirement System~~ as recommended by the actuary.

~~001.06~~ 002.06 For purposes of determining the last date a member must complete a purchase of service the date of employment, reemployment or membership shall mean the first date contributions are posted to a member's account after his/her employment or reemployment.

~~001.07~~ 002.07 ~~The first notice of the intent of a~~ A member wanting to make a purchase of service must give notice of his or her intent to purchase service including method of payment on forms prescribed by NPERS. ~~be in writing and received in the Retirement Office no later than the member's third anniversary of the date of employment, reemployment, or membership, as required by law. Notice will be deemed received if postmarked by the applicable deadline.~~

~~001.08 All payments for purchase of service must be received in the Retirement Office no later than the last working day of the month containing the member's fifth anniversary of their date of employment, reemployment or membership, or prior to retirement, whichever is first. Payment will be deemed received if postmarked by the last day of that same month.~~

002.08 Receiving Payments.

002.08(a) For the School Plan, if a member is required to pay the annual rate of regular interest accrued on member accounts as determined annually by the Retirement Board, all payments must be received in the Retirement Office within five years of the date the first retirement contribution posts to the member's retirement account upon reemployment or prior to termination, whichever is sooner. If a member is required to pay the actuarial assumed rate used by the Plan, all payments must be received in the Retirement Office within five years of the date on which the Retirement Office received the member's Application for Purchase of Service or prior to termination, whichever is sooner. Payment must be received by the cost calculation due date.

002.08(b) For the Judges Plan and Patrol Plan, all payments must be received in the Retirement Office within five years of the date a member elects to repay his or her refund on forms prescribed by NPERS or prior to termination, whichever is sooner.

~~001.09~~ 002.09 For purposes of this regulation, employment shall mean the initial date of hire by a covered employer. Reemployment shall mean being rehired by a covered employer after having terminated employment. Termination of employment means the date on which the member leaves the employ of a covered employer ending the employee-employer relationship. Termination of employment for school employees does not include ceasing active work at the end of the school year if the member will return to active work during the following school year with any covered employer under the Nebraska School Employees Retirement System.

~~001.10~~ 002.10 ~~In addition to the notice of a member's intent to purchase service,~~ In order to purchase service credit, the member must file a detailed application to purchase service ~~must be completed,~~ on a form prescribed by NPERS ~~the Retirement Office~~, before ~~actual~~ payments will be accepted. To allow sufficient processing time ~~before the statutory deadline for payments,~~ the application ~~should~~ must be received no later than forty-five (45) ~~90~~ calendar days in NPERS prior to the member's last day ~~of the month containing the fifth anniversary of the date of~~ employment, ~~reemployment or membership, as defined.~~

~~001.11~~ 002.11 In no case shall service credit be granted until all payments for the purchase of that service have been completed, except as specifically provided under Title 303.

~~001.12~~ 002.12 Code shall mean the Internal Revenue Code ~~of 1986~~, as amended.

~~001.13~~ 002.13 Code section 415 defined contribution limits shall apply to all after-tax payments made for purchases of service except for payments to repay original ~~after-tax~~, mandatory contributions withdrawn for service years, The defined calendar year maximum annual addition defined contribution limit will be applied to the July 1 through June 30 Plan Year. For example, the calendar year maximum annual addition for 2012 will be applied to the period July 1, 2012 through June 30, 2013. ~~prior to January 1, 1986, for members of the Nebraska School Retirement System and for service years prior to January 1, 1985, for members of the Judges and State Patrol Systems.~~

~~002~~ 003 Repayment of Refund (School~~, Judges and State Patrol~~ Plan Members Only)

~~002.01~~ 003.01 All general provisions in Section ~~001~~ 002 and methods of purchasing service as defined in Section ~~006~~ 008 in this regulation will apply to repayment of a refund.

~~002.02~~ The cost of repaying a refund includes member contributions for service years being purchased and regular interest that would have been accrued on those contributions.

003.02 The cost of repaying a refund will include member contributions for service years being purchased and regular interest that would have been accrued on those contributions if the member initiates repayment by filing an application form and determining method of payment within three years of returning to school employment. The member must be a contributing member upon reemployment in order to repay a refund.

003.02(a) If the member initiates repayment by filing an application and method of payment form beyond three years of returning to school employment, the cost of repaying a refund will include the amount withdrawn by the member, or a portion thereof, plus interest that would have been accrued on those contributions using the actuarial assumed rate of return computed from the time the refund was taken until it is repaid. The member must be a contributing member upon reemployment in order to repay a refund.

003.02(b) Refunded service must be purchased in whole fiscal year increments from oldest fiscal year to newest fiscal year. Partial fiscal year purchases are not allowed. Fiscal years not earning service credit will not be part of a refunded purchase.

~~002.03~~ 003.03 Before the repayment of a refund will be processed by NPERS ~~the Retirement Office~~, the member's service ~~and compensation~~ must be verified. ~~by the covered employer on forms prescribed by the Retirement Office~~.

~~002.04 Code section 415 defined contribution limits for member after-tax, mandatory contributions for service will not apply to the purchase of service for years prior to~~

~~January 1, 1986, for school members and January 1, 1985, for judges and state patrol members.~~

~~003~~ 004 Out-of-State Service (School Plan Members Only)

~~003.01~~ 004.01 For purposes of this regulation, out-of-state service shall mean creditable service rendered in public schools in another state or schools in this state covered by the school retirement system established pursuant to Neb. Rev. Stat. § 79-979 and subject to the limitations established by law.

~~003.02~~ 004.02 All general provisions in Section ~~001~~ 002 and methods of purchasing service as defined in Section ~~006~~ 008 of this regulation will apply to the purchase of out-of-state service.

~~003.03~~ 004.03 Service ~~and compensation~~ for the out-of-state service must be verified on forms prescribed by NPERS ~~the Retirement Office~~ before the actual cost of purchase can be determined.

~~003.04~~ 004.04~~(a)~~ The cost of purchasing out-of-state service ~~includes member contributions that would have been required for service years being purchased and the regular interest that would have been accrued on those contributions unless subsection (b) of this section applies. (b) The cost of purchasing out-of-state service for any member hired or rehired after July 19, 1996,~~ is the actuarial cost of the service ~~to be purchased~~ incurred by the School Employees Retirement System for allowing such additional service credit to the employee.

~~003.05~~ 004.05 A member's out-of-state service credit may not exceed the amount of service credit the member actually accrues as a school employee in the State of Nebraska. When a member who has purchased out-of-state service credit ceases employment and applies for monthly retirement benefits, the years of service credit attributable to in-state service with a covered employer shall be compared with the years of out-of-state service credit that were purchased. If the years of out-of-state service by the member exceed the years of the member's in-state service, the excess years of out-of-state service will be eliminated in determining the member's benefits under the Retirement System. The member, if under contract or employed by a covered employer on or after July 19, 1996, shall receive a refund of the cost of the out-of-state service which had been purchased by the member but which is eliminated under this regulation. ~~The refund shall be calculated by eliminating the first chronological years of out-of-state service that were purchased, and continuing with immediately succeeding years of out-of-state service, until the required amount of out-of-state service which must be eliminated has been met. The dollar amount of the refund shall be the actual purchase cost paid by the member for the years of out-of-state service which are eliminated under this regulation. No interest shall be paid on the refund.~~

~~003.06~~ 004.06 Fractional years of out-of-state service for a member of the Nebraska School Retirement System may be purchased ~~provided the existing Nebraska public school service for that year equals one-half or more of a year of service, as defined by law~~.

~~003.07~~ 004.07 When determining the code section 415 benefit limits at the time a member commences benefit payments, the high three, consecutive years of section 415

compensation must be compensation from the covered employer. This means the out-of-state compensation cannot be used to determine the limit.

~~004~~ 005 Leave of Absence (School Plan Members Only)

~~004.01~~ 005.01 All general provisions in Section ~~001~~ 002 and methods of purchasing service as defined in Section ~~006~~ 008 of this regulation will apply to the purchase of service for a leave of absence, as defined by law.

~~004.02~~ 005.02 Verification of the leave, as approved by the school employer, ~~and the member's compensation immediately prior to the leave~~ must be received by NPERS ~~the Retirement Office~~ before the actual cost of purchase can be determined. If the cost of purchasing service credit is based upon interest, then the member's compensation immediately prior to the leave must be verified by the school employer.

~~004.03~~ 005.03(a) The cost of purchasing service credit for a leave of absence ~~includes member and school district contributions that would have been made during the period of leave had the member been actively working in a public school, based on the compensation immediately prior to the leave, plus the regular interest that would have accrued on those contributions~~ is computed actuarially unless subsection 005.03(b) of this section applies.

005.03(b) ~~The cost of purchasing service credit for a leave of absence, for a member hired or rehired after July 19, 1996, is the actuarial cost of the service to be purchased.~~ A member who was hired or rehired prior to July 19, 1996, who has not changed employers since that date and who has elected to pay for the leave of absence within three years of returning from the leave and indicating such on forms prescribed by NPERS, shall pay the cost of purchasing service credit for a leave of absence, which includes member and school district contributions that would have been made during the period of leave had the member been actively working in a public school, based on the compensation received immediately prior to the leave, plus the regular interest on the employee contributions that would have accrued on those contributions.

006 Repayment of Refund (Judges and State Patrol Members Only)

006.01 All general provisions in Section 002 and methods of purchasing service as defined in Section 008 in this regulation will apply to repayment of a refund.

006.02 The cost of repaying a refund includes member contributions for service years being purchased and regular interest that would have been accrued on those contributions. The member must be a contributing member upon reemployment in order to repay a refund.

~~005~~ 007 Military Service Credit (State and County Plan Members Only)

~~005.01~~ 007.01 At the time a military leave commences the covered employer and/or the member must notify NPERS ~~the Retirement Office~~ in writing of the leave and the expected length of the leave.

~~005.02~~ 007.02 The covered employer may require the member to indicate in advance and to notify NPERS ~~the Retirement Office~~ if the member intends to purchase the military service at the time of his/her return to work. This advance election shall not be binding on the member.

~~005.03~~ 007.03 All general provisions in Section ~~001~~ 002, unless otherwise stated in this section, and all methods of purchasing service as defined in Section ~~006~~ 008 of this regulation will apply to the purchase of military service credit.

~~005.04~~ 007.04 An election to purchase the military service is to be made in writing to NPERS ~~the Retirement Office~~ within one year from the date of reemployment. An application form prescribed by NPERS ~~the Retirement Office~~ must be filed before payments can be received by NPERS ~~the office~~.

~~005.05~~ 007.05 Verification of the beginning and ending dates of a member's military leave as well as the applicable compensation, must be received by NPERS ~~the Retirement Office~~ before actual payments can be made by the member.

~~005.06~~ 007.06 The cost of the purchase of the military leave to the member will be the amount of contributions the member would have made had the member been continuously employed during the leave. For purposes of the member and employer contributions under this section, the member's compensation during the period of military service shall be the rate the member would have received but for the military service or, if not reasonably determinable, the average rate the member received during the twelve (12) month period immediately preceding military service. When a member has completed the purchase of service the covered employer will be billed for the matching employer contribution amount, as required by law. If the member chooses to use the payroll deduction method the employer may match the member contribution month by month. There will be no interest or late fees charged to the member or the employer for the purchase of military service credit.

~~005.07~~ 007.07 The deadline for completing the purchase of military service credit under federal law will apply. This deadline is three (3) times the member's service in the military, not to exceed five (5) years.

~~006~~ 008 Payment Methods

~~006.01~~ 008.01 Installment Method

008.01(a) Member's electing to purchase optional service credit with the installment method may choose tax deferred payroll deduction or direct after-tax installment payments. Payments made ~~In all cases, except for eligible rollover distributions, payments shall be on an after-tax basis and~~ are subject to ~~the~~ IRS code section 415 ~~defined contribution~~ annual limits. If the contributions qualify as a repayment of original ~~after-tax,~~ mandatory contributions as described under section ~~002~~ 003 of this regulation the section 415 limits do not apply.

008.01(b) Before direct after-tax installment payments can be accepted for purchase of service each year during the installment period, the member must substantiate his or her current compensation in such manner as may be required

by NPERS ~~the Retirement Office~~. If a member's direct after-tax installment payments exceed the applicable code section 415 limit, the excess shall be refunded to the employee and the service credit adjusted accordingly. ~~At the end of each calendar year the actual code section 415 compensation for that year must be verified by the covered employer as a condition of final acceptance of that year's installments and to assure the payments did not cause the member to exceed the code section 415 limits. If the covered employer's verification establishes that the member's payment for purchase of service in that year exceeds the code section 415 limit, the excess shall be refunded to the employee and subsequent installments adjusted accordingly. In all events the service that is credited to the member shall be adjusted if necessary to reflect any limitations under code section 415 on the amount of installment payments which can be accepted from the member.~~

008.01(c) ~~All members eligible for purchase of service electing to use the installment method must sign an irrevocable agreement stipulating the method of settlement to be used if the installment payments are not completed due to death, a disability which requires the member to cease employment, or ceasing covered employment.~~ Direct after tax installment payments made to NPERS by the member (other than through payroll deduction) must be by cashier's check, bank draft or money order. Personal checks will not be accepted.

~~(d) The finance interest rate used for installment payments shall be the actuarial interest rate assumption based on the expected long-term rate of return for each plan, recommended by the actuary and adopted by the Retirement Board.~~

008.01(~~e~~ d) ~~A member may elect to purchase service through payroll deduction pursuant to an irrevocable payroll deduction agreement with the member's employer which authorizes the employer to deduct the payment from the employee's compensation. One copy of the agreement must be on file with the employer and one copy with the Retirement Office before payments may begin. (f) In the event a member elects to purchase service by payroll deduction, the covered employer shall be responsible for making timely remittances of the member contributions for the service purchase.~~ If a member elects to purchase service by a lump sum after-tax payment and such purchase exceeds the annual code section 415 limits, the member is permitted to initiate separate purchases in immediate succeeding periods. Members who are unable to make a lump sum payment due to the limitations of code section 415 may elect to purchase with funds that are not subject to 415 limits.

008.01(~~g~~ e) ~~Direct installment payments made to the Retirement Office by the member (other than through payroll deduction) must be by cashier's check, bank draft or money order. Personal checks will not be accepted.~~ In the event a member's irrevocable purchase agreement becomes inoperative due to the employee's death, disability, or other termination of employment before full payment for the employee's service purchase has been completed, no further contributions for the purchase of creditable service shall be accepted and the employee's retirement benefit under the applicable retirement system shall be computed with service credit equal to the amount of service credit acquired in proportion to the amount of the installment payments paid by the member under the irrevocable purchase agreement.

008.01(f) In the case of the School Employees Retirement System, termination of employment for the employee does not include ceasing work at one school district and then providing successive contributory service at another school district that participates in the School Employees Retirement System. If the employee transfers to another school district administered by the Retirement Board, then the employee shall continue, without interruption, direct after tax monthly installment payments or monthly payroll deductions, whichever was specified in the member's irrevocable purchase agreement. In the case of payroll deductions, upon notification by the member, NPERS will contact the successor employer in order to make arrangements to continue, without interruption, monthly payroll deductions specified in the originating irrevocable purchase agreement.

008.01(g) The finance interest rate used for the direct after tax installment payments and tax deferred payroll deductions shall be the actuarial interest rate assumption based on the expected long-term rate of return for each plan, recommended by the state's actuary and adopted by the Retirement Board.

008.01(h) A late fee may be charged when direct payments are not received by the payment deadline. The fee will be based on the finance interest rate as defined by this section. There will be no late fee assessed for the purchase of military service for state and county members as required by federal law.

~~006.02~~ 008.02 Rollovers

008.02(a) Consistent with the Code, NPERS ~~the Retirement Office~~ will accept rollovers in payment for lump-sum purchases of service credit, provided the money is an eligible rollover distribution received from one of the following:

008.02(a)(i) A code section 401(a) or 401(k) tax qualified plan

008.02(a)(ii) A code section 403(a) or (b) tax sheltered annuity account ~~qualified annuity plan~~

008.02(a)(iii) A code section 408(a) individual retirement account (IRA) or a code section 408(b) individual retirement annuity~~, but only if the IRA is a conduit or holding account IRA or annuity, containing amounts from a code section 401(a) tax qualified plan or a code section 403(a) annuity plan and does not contain any other types of funds. An IRA which is established and/or funded with other money is not an eligible conduit or IRA annuity~~.

008.02(a)(iv) A code section 457(b) deferred compensation plan ~~The member, if the amount was distributed to the member from a code section 401(a) or code section 403(a) qualified plan and is rolled over by the member to the Nebraska Retirement Systems within 60 days of that distribution, and if the member's payment is accompanied by proof, satisfactory to the Retirement Office, of rollover eligibility. (Personal checks will not be accepted) Distributions from a code section 403(b) tax-sheltered annuity or custodial account may not be rolled over to the~~

~~Nebraska Retirement Systems. Also, distributions from a code section 457 deferred compensation plan for governmental and tax-exempt agencies may not be rolled over to the Nebraska Retirement Systems.~~

008.02 (b) A rollover or transfers from a qualifying tax-deferred account will not be accepted by NPERS without the member certifying that the dollars contributed to the tax deferred account were contributed on a pre-tax basis and are eligible for rollover or transfer to NPERS. In addition, the custodian or trustee of the qualified tax-deferred account must certify that the member's account has maintained its proper tax-qualification conditions under the applicable sections of the Internal Revenue Code that apply to the rollover or transferring account. Under no circumstances shall any after-tax amounts be transferred to NPERS.

~~(b) The retirement plan transferring the rollover distribution to the Nebraska Retirement Systems, on behalf of the member, must verify in writing the plan is a tax-qualified plan in advance of the payment. In no event shall any after-tax amounts be transferred to the Retirement Office.~~

~~(c) If the rollover is being made from an IRA, verification from the sponsoring institution will be required to assure the Retirement Office the money being transferred is an eligible rollover distribution, as defined.~~

008.02(~~d~~ c) A direct rollover payment for purchase of service may be made by check from the transferring institution to the Nebraska Retirement Systems, or a check delivered to the member but negotiable only by the Nebraska Retirement System will be accepted as a direct rollover.

008.02(~~e~~ d) The amount of the rollover payment accepted by the Nebraska Retirement System will be based on the cost of the service purchased and determined only by NPERS ~~the Retirement Office~~. Funds in excess of the actual purchase cost will not be accepted.

008.02(~~f~~ e) All other federal tax laws governing eligible rollover distributions shall apply.

~~006.03~~ 008.03 Lump Sum Payments

008.03(a) A lump sum payment is a one-time, direct payment by the member for the purchase of eligible service credit.

008.03(b) In all cases, except for eligible rollover distributions, the payment shall be on an after-tax basis and subject to the code section 415 defined contribution annual limits. If the contributions qualify as a repayment of original after-tax, mandatory contributions as described under section ~~002~~ 003 of this regulation the code section 415 limits do not apply.

008.03(c) Before a lump sum after-tax payment can be accepted as a purchase of service, the member must substantiate their current compensation in such a manner as may be required by NPERS ~~the Retirement Office~~. If a member's lump sum after-tax payment ultimately exceeds the applicable code section 415 limit, ~~At the end of the calendar year the actual code section 415 compensation~~

~~for that year must be verified by the covered employer as a condition of final acceptance and to assure the payment did not cause the member to exceed the code section 415 limits. If the covered employer's verification establishes that the member's payment for purchase of service exceeds the code section 415 limits,~~ the excess shall be refunded to the employee and the service credit adjusted accordingly.

008.03(d) If a member elects to purchase service by lump sum after-tax payments and such purchase exceeds the annual code section 415 limits, the member may ~~will~~ be permitted to make payments in immediate succeeding periods to complete the member's purchase of service. Members who are unable to make a lump sum payment due to the limitations of code section 415 may be required by NPERS ~~the Retirement Office~~ to use the installment method to complete the payments.

008.03(e) Payments will only be accepted via cashier's check, bank draft or money order. Personal checks will not be accepted as payment.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 23-2305, 23-2323.01, 23-2323.02, 23-2323.03, 24-704, 24-710.05, 24-710.06, 79-904, 79-924, 79-926, 79-927, 79-933.01, 79-933.02, 79-933.03, 79-933.04, 79-933.07, 81-2019, 81-2031.03, 81-2031.04, 84-1305, 84-1312, 84-1313, 84-1325, and 84-1503.