NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 17

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR
ADMINISTRATION OF INTERNAL REVENUE SERVICE CODE SECTION 415
AND MAXIMUM COMPENSATION LIMITS

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 17 – ADMINISTRATION OF INTERNAL REVENUE SERVICE CODE SECTION 415 AND MAXIMUM COMPENSATION LIMITS

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 17 – ADMINISTRATION OF INTERNAL REVENUE SERVICE CODE SECTION 415 AND MAXIMUM COMPENSATION LIMITS

001 Scope of the Rule

This rule governs the procedures for specifying Internal Revenue Service Code Section 415 and maximum compensation limits in the Retirement System for Nebraska Counties (County plan), the Judges Retirement System (Judges plan), the School Employees Retirement System (School plan), the State Patrol Retirement System (Patrol plan), and the State Employees Retirement System (State plan).

~~001~~ 002 Definitions.

~~001.01~~ 002.01 Code means the Internal Revenue Code, as amended.

~~001.02~~ 002.02 Defined Contribution Plan means the defined contribution plan component of the Retirement Plan for Nebraska Counties and the State Employees Retirement Plan.

~~001.03~~ 002.03 Defined Benefit Plan means the ~~Nebraska Judges Retirement Fund~~ Judges Retirement Plan, the Nebraska State Patrol Retirement Plan, ~~and~~ the School Employees Retirement Plan, and the cash balance plan component of the Retirement Plan for Nebraska Counties and the State Employees Retirement Plan of the State of Nebraska.

~~002~~ 003 Defined Contribution~~s~~ Plan 415 Limitations.

~~002.01~~ 003.01 Maximum annual contribution ~~addition~~: The annual contribution ~~addition~~ that may be contributed or allocated to a member's account under a defined contribution plan for any limitation year beginning on or after December 31, ~~2001~~ 2010 shall not exceed the lesser of:

~~002.01(a)~~ 003.01(a) ~~$40,000~~ $49,000, as adjusted for increases in the cost-of-living under section 415(d) of the Code, or

~~002.01(b)~~ 003.01(b) 100 percent of the member's compensation, within the meaning of section 415(c)(3) of the Code, for the limitation year.

~~002.02~~ 003.02 Maximum compensation amount for employees hired on or after January 1, 1996:

The annual compensation of each member hired on or after January 1, 1996 taken into account in determining allocations for any plan year beginning after December 31, ~~2001~~ 2010, shall not exceed ~~$200,000~~ $245,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other

consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

~~002.03~~ 003.03 Maximum compensation amount for employees hired on or before December 31, 1995:

The annual compensation of each member hired on or before December 31, 1995 taken into account in determining allocations for any plan year beginning after December 31, 2001 shall not exceed the amount which was allowed to be taken into account under the retirement plans as in effect on July 1, 1993, shall not exceed $360,000 ~~which was $ 235,840~~, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

~~003~~ 004 Defined Benefit Plan 415 Limitations:

~~003.01~~ 004.01 Maximum permissible benefit: the annual benefit payable under a defined benefit plan in any limitation year shall not exceed the defined benefit dollar limitation~~. With respect to the defined benefit plans, the~~ applicable at the annuity starting date. The "defined benefit dollar limitation" is ~~$160,000~~ $195,000, as adjusted, effective January 1st of each year, under section 415(d) of the Code in such manner as the United States Secretary of the Treasury shall prescribe, and payable in the form of a straight life annuity~~. A~~ without regard to the benefit attributable to the after-tax employee contributions (except pursuant to section 415(n) of the Code) and to rollover contributions, and subject to the applicable adjustments in 004.02. The defined benefit dollar limitation as adjusted under section 415(d) of the Code will apply to limitation years ending with or within the calendar year for which the adjustment applies. If the benefit under the defined benefit plan is other than a straight life or qualified joint and survivor annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity as provided in 004.01(a) or 004.02(b) below before applying the limitations of this 004.

004.01(a) For a benefit paid in a form to which section 417(e) of the Code does not apply (monthly benefit), the actuarially equivalent straight life annuity benefit is the greater of:

(1) the annual amount of the straight life annuity, if any, payable under the defined benefit plan commencing at the same annuity starting date as the form of benefit that is payable to the member computed using the interest rate assumption and mortality table specified in the following sections as applicable to the defined benefit plan: §§ 24-701, 79-902, 81-2014; or

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as

the form of benefit that is payable to the member, computed using a five percent (5%) interest assumption (or the applicable statutory interest assumption) and the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for that annuity starting date.

004.01(b) For a benefit paid in a form to which section 417(e)(3) of the Code applies (lump sum), the actuarially equivalent straight life annuity benefit is the greater of:

(1) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member, computed using the interest rate assumption and mortality table specified in the following sections as applicable to the defined benefit plan: §§ 24-701, 79-902, 81-2014;

(2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member, computed using a 5.5 percent (5.5%) interest rate assumption (or the applicable statutory interest assumption) and the applicable mortality table described in Treasury Regulation section 1.417(e)-1(d)(2) that is effective for that annuity starting date; or

(3) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit that is payable to the member computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (using the rate in effect in effect for the first day of the plan year with a one-year stabilization period) and the applicable mortality table that is effective for that annuity starting date under Treasury Regulation section 1.417(e)-1(d)(2), divided by 1.05.

~~003.02~~ 004.02 ~~Maximum permissible benefit: The "~~ Adjustments to defined benefit dollar limitation: The "defined benefit dollar limitation" to be used in determining the "maximum permissible benefit" ~~in~~ under the defined benefit plans ~~is the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both~~ shall be adjusted where required~~,~~ as provided in 004.02(a) and, if applicable, in 004.02(b) or 004.02(c) below).

004.02(a) Adjustments for less than ten (10) years of participation. If the member has fewer than ten (10) years of participation in a defined benefit plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof, but not less than one) of participation in the plan and (ii) the denominator of which is ~~10. In the case of a member who has fewer than ten (10) years of service in the plans, the defined benefit compensation limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of service with the employer and (ii) the denominator of which is 10~~ ten (10). The foregoing reduction required by

this 004.02(a) shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits provided by the defined benefit plan.

004.02(b) Adjustments for benefits commencing prior to age sixty-two (62). If the benefit of a member begins prior to age 62, the defined benefit dollar limitation applicable to the member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the member at age 62 (adjusted under 004.02(a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 004.02(a), if required) computed using the interest rate and mortality table (or other tabular factor) specified in the following sections ~~of~~ as applicable to the defined benefit plans: §§ 24-701, 79-902, 81-2014, and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 004.02(a), if required) computed using a five percent (5%) ~~5-percent~~ interest rate and the applicable mortality table as defined in ~~the following sections of the plans §§ 24-701, 79-902, 81-2014.~~ Treasury Regulation section 1.417(e)-1(d)(2) that is effective for the annuity starting date. Any decrease in the defined benefit dollar limitation determined in accordance with ~~this paragraph~~ 004.02(b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

004.02(c) Adjustments for benefits commencing after age sixty-five (65). If the benefit of a member begins after the member attains age 65, the defined benefit dollar limitation applicable to the member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the member at age 65 (adjusted under 004.02(a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation (as adjusted under 004.02(a), if required) computed using the interest rate and mortality table (or other tabular factor) specified in the following sections ~~of the plans~~ as applicable to the defined benefit plans: §§ 24-701, 79-902, 81-2014 and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) ~~5-percent~~ interest rate assumption and the applicable mortality table as defined in ~~the following sections of the plans §§ 24-701, 79-902, 81-2014.~~ Treasury Regulation section 1.417(e)-1(d)(2) that is effective for the annuity starting date. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

~~003.03~~ 004.03 Benefit Increases: Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former members (with benefits limited by section 415(b)) who have an accrued benefit under the defined benefit plans immediately prior to the effective date of this section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)).

004.04 Minimum benefit: Notwithstanding anything in this section to the contrary, the benefit otherwise accrued or payable to a member by a defined benefit plan will be deemed to not exceed the "maximum permissible benefit" if:

004.04(a) the benefit payable for a limitation year under any form of benefit with respect to the member under all defined benefit plans does not exceed $10,000 multiplied by the a fraction (i) the numerator of which is the number of years (or part thereof, but not less than one) of service with the employer and (ii) the denominator of which is ten (10); and

004.04(b) the employer has not at any time maintained a defined contribution plan in which the member participated (not considering mandatory employee contributions under a defined benefit plan, individual medical accounts under section 401(h) of the Code or postretirement medical benefits under section 419A(d)(1) of the Code as a separate defined contribution plan).

~~003.04~~ 004.05 Increase in Compensation Limit for Members hired on or after July 1, 1996:

004.05(a) Increase in limit. The annual compensation of each member hired on or after July 1, 1996 taken into account in determining benefit accruals in any plan year beginning after December 31, ~~2001~~ 2010 shall not exceed ~~$200,000~~ $245,000. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, ~~2001~~ 2010, compensation for any prior determination period shall be limited as provided by the employer in the adoption agreement.

004.05(b) Cost-of-living adjustment. The ~~$200,000~~ $245,000 limit on annual compensation in paragraph 004.04(a) shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

~~003.05~~ 004.06 Increase in Compensation Limit for Members hired on or before June 30, 1996:

004.06(a) The annual compensation of each member hired on or before June 30, 1996 taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed the amount which was allowed to be taken into account under the retirement plans as in effect on July 1, 1993, shall not exceed $360,000 ~~which was $ 235,840~~. Annual compensation means compensation during the plan year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination period shall be limited as provided by the employer in the adoption agreement.

004.06(b) Cost-of-living adjustment; The limit set forth in paragraph (a) on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

~~003.06~~ 004.07 Compensation Limit for Prior Determination Periods: In determining benefit accruals in plan years beginning after December 31, ~~2001~~ 2010, the annual compensation limit in paragraph (a) of Section ~~003.04~~ 004.04, Increase in Compensation Limit, for determination periods beginning before January 1, ~~2002~~ 2011, shall be ~~$200,000~~ $245,000.

ENABLING LEGISLATION:

NEB. REV. STAT. § 84-1503.