LEGISLATIVE FORMAT

NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 9

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR
MISSING OR UNRESPONSIVE PARTICIPANTS AND BENEFICIARIES

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 9 – MISSING OR UNRESPONSIVE PARTICIPANTS AND BENEFICIARIES

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 9 – MISSING OR UNRESPONSIVE PARTICIPANTS AND BENEFICIARIES

001 Scope of the Rule

001.01 This rule and regulation governs the procedures for locating missing participants and beneficiaries, the timing of such search methods, and the distribution of unclaimed benefits to missing or unresponsive participants 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).

001.02 Qualified plans under the Internal Revenue Code (IRC) § 401(a) have a duty to make reasonable efforts to locate missing participants when a minimum distribution is required to be paid in IRC § 401(a)(9). In addition under its fiduciary duty outlined in Neb. Rev. Stat. § 84-1503.02, the Public Employees Retirement Board has a duty to make reasonable efforts to locate missing participants and implement rules and regulations for administering benefits for missing or unresponsive participants and beneficiaries.

002 Definitions

002.01 "Director means the director of NPERS, which is identified in Neb. Rev. Stat. § 84-1503.03.

002.02 "Employer" means: (a) the State of Nebraska for the Judges Plan, the State Patrol Plan, and the State Plan; (b) an employer covered by the School Employees Retirement Act for the School Plan; and, (c) a county employer covered by the County Employees Retirement Act for the County Plan.

002.03 ''Missing participants'' are participants who NPERS or a covered employer cannot contact because they have moved and left no forwarding address.

002.04 "NPERS" means the Nebraska Public Employees Retirement Systems, which is the agency for the administration of the retirement systems and under the direction of the Public Employees Retirement Board, identified in Neb. Rev. Stat. § 84-1503(1)(a).

002.05 "Participant" means a member, a beneficiary, or an alternate payee participating in a retirement system identified in Neb. Rev. Stat. § 84-1503(1)(a) or the deferred compensation plan identified in § 84-1504.

002.06 "Unresponsive participants" means participants who do not respond to NPERS's notices, communications, or other disclosures.

003 Methods for Locating Missing or Unresponsive Participants

003.01 Prior to NPERS making a determination that a participant is missing, NPERS will have used routine methods of delivering notice to participants, such as first-class mail or electronic notification.

003.02 If the methods identified in subsection 003.01 fail to obtain the information necessary for a distribution or NPERS has reason to believe that a participant has failed to inform the agency of a change in address, then the participant will be considered missing and NPERS may undertake one or more of the following steps and procedures to locate a missing participant:

(a) certified mail;
(b) checking related plan records;
(c) checking with the designated plan beneficiary;
(d) using a letter forwarding service;
(e) Internet search tools;
(f) commercial locator services;
(g) credit reporting agencies; and,
(h) other reasonable search methods as determined by the Director.

003.03 NPERS is not obligated to take each of the steps listed in subsection 003.02 if one or more of the search methods are unsuccessful in locating a missing participant.

003.04 An unresponsive participant will be considered missing by NPERS if there is no knowledge on the part of NPERS that the participant is intentionally choosing to disregard the attempted notices or other disclosures sent by NPERS to the participant's last known residential or email addresses. NPERS staff may verify the intentions of the participant by attempting to contact the participant by phone call.

004 Cost of Search Methods

004.01 The costs of using the search services described in 003.02 may be administratively charged to the missing participant's account. Such costs, if assessed, shall include reasonable charges associated with the search methods utilized.

004.02 The Director will consider the size of a missing participant's account balance in relation to the costs of the search method utilized when deciding whether the use of such services are appropriate. If the cost of a search method utilized is (a) less than $200 and (b) less than 10% of a missing participant's account balance, then such cost may be considered by the Director as a reasonable expense in locating the missing participant.

004.03 Some search methods described in 003.02 involve a nominal expense and because there is a significant potential for effectiveness in locating the missing participant, NPERS will utilize such search methods, regardless of the size of the missing participant's account balance, or reasonableness limits described in subsection 004.02.

005 Timing of Search Methods

005.01 Once a participant has been determined to be missing after routine methods of delivering notice have been undertaken in subsection 003.01, NPERS will within ninety (90) days after making such determination begin a formal search process, and implement the search methods in subsection 003.02.

005.02 The formal search process will consist of NPERS staff undertaking the search methods in subsection 003.02 based upon the likelihood of success for each method utilized. NPERS will determine the order and frequency in which each method is used. This determination will take into consideration the known information regarding the each missing participant, including but not limited to the following:

(a) last known address or residence;
(b) date of last known correspondence from the participant;
(c) information about relatives and beneficiaries;
(d) employment information;
(e) court records; and,
(f) any other information known to NPERS or transmitted by an employer to NPERS.

005.03 At least once every twelve (12) months, NPERS should undertake one or more of the methods listed in subsection 003.02 during a formal search process.

005.04 The formal search process will continue until property held by NPERS for the benefit of the participant is presumed abandoned in accordance with subsection 007.01.

006 Uncashed Checks or Returned Electronic Fund Transfers

006.01 Upon the return of an uncashed check or returned electronic fund transfer (EFT), NPERS shall perform due diligence in determining why the check or EFT was returned or uncashed. NPERS will make a reasonable attempt to reconcile the issue causing the check or EFT to be returned or uncashed.

006.02 If it is determined by NPERS that the attempted recipient of the check or EFT is missing, then NPERS shall undertake the search methods described in section 003 in order to locate the participant and effectuate the payment.

007 Distributing Unclaimed Benefits

007.01 Pursuant to Neb. Rev. Stat. § 69-1307.03, all distributions held in a retirement plan administered by NPERS, which has not been paid or distributed for more than thirty (30) days after the earliest of the following: (a) the actual date of distribution or attempted distribution; (b) the date contracted for distribution in the plan; or (c) the date specified in the internal revenue law of the United States by which distribution must begin in order to avoid a tax penalty, is presumed abandoned unless the participant within the five (5) years preceding any such date has made additional contributions or transfers of funds to plan, was paid or received a distribution, communicated concerning the retirement account, or otherwise indicated an interest as evidenced by a memorandum or other record on file with NPERS.

007.02 Pursuant to Neb. Rev. Stat. § 69-1310, NPERS shall report to the State Treasurer property presumed abandoned as indentified in subsection 007.01. The report shall be filed before November 1st of each year as of June 30th next preceding, The property must accompany the report unless excused by the State Treasurer for good cause. The report shall be verified by NPERS and shall include:

(a) the name, if known, and last-known address, if any, of each missing participant from NPERS' records to be the owner of any property presumed abandoned;
(b) the identifying number, if any, or description of the property and the amount appearing from the records to be owed to the participant, except that items of less than twenty-five ($25) dollars may be reported in the aggregate;
(c) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the participant with respect to the property; and,
(d) Other information which the State Treasurer may prescribe by rule.

007.03 If NPERS knows the whereabouts of a previously determined missing participant, NPERS shall, before filing the annual report in subsection 007.02, communicate with the participant and take necessary steps to prevent abandonment from being presumed. NPERS shall exercise due diligence to ascertain the whereabouts of the missing participant.

007.04 NPERS shall pay or deliver to the State Treasurer all abandoned property specified in the report described in subsection 007.02, except that, if the participant establishes his right to receive the abandoned property to the satisfaction of NPERS within the time specified in Neb. Rev. Stat. § 69-1311, or if it appears that for some other reason the presumption of abandonment is erroneous, then NPERS need not pay or deliver the property, which will no longer be presumed abandoned, to the State Treasurer, but in lieu thereof NPERS shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

007.05 Once the abandoned property has been paid or delivered by NPERS to the State Treasurer, NPERS will no longer be responsible for returning the participant's abandoned property to the participant.

ENABLING LEGISLATION:

NEB. REV. STAT. § 84-1503.