NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 4

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR REFUND AND TERMINATION BENEFIT PROCEDURES

Last Revision: ~~August 22, 2011~~September 24, 2012
Current Revision: September ~~24, 2012~~23, 2013
Effective Date: ~~December 8, 2012~~

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 4 – REFUND AND TERMINATION BENEFIT PROCEDURES

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 4 – REFUND AND TERMINATION BENEFIT PROCEDURES

001 Scope of the Rule

This rule governs the procedures for paying refunds and termination benefits 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).

002 Definitions

002.01 The definitions provided in Nebraska statutory law for each plan shall apply to the provisions herein as they relate to that plan. In addition to those definitions, the following definitions shall apply:

~~002.02 Application date means the date on which the Nebraska Public Employees Retirement Systems (NPERS) receives a completed and valid application from the member or beneficiary;~~

~~002.03 Distribution date means the date on which NPERS completes its last administrative action in transferring the distribution to the member or beneficiary;~~

~~002.04 Refund means the benefit distributed, whether all or a part of a member's retirement account in whatever form it may be lawfully made, when that distribution occurs prior to the date on which the member achieves the earliest date whereby the member qualifies for a retirement benefit; and,~~

~~002.05~~002.02 [RESERVED];

002.03 [RESERVED];

002.04 [RESERVED];

002.05 Refund or Termination Benefit means the benefit distributed, whether all or part of a member's retirement account in whatever form it may be lawfully made, when that distribution occurs prior to the date on which the member achieves the earliest date whereby the member qualifies for a retirement benefit~~;~~.

002.06 Termination Date means the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the employer; provided, however, with respect to members of the School Plan, (1) the date of such separation from service shall be determined by the end of the member's contractual agreement or, if there is no contract or only partial fulfillment of a contract, by the employer, and (2) the termination date for a member who

is compensated for a full contractual period shall not be deemed to occur until the end date of the contract.

003 School Plan

003.01 No refund or termination benefit shall be made until the employer has provided to NPERS proof that the ~~member~~member's termination date has ~~terminated employment~~occurred.

003.02 A member may file an application for a refund or termination benefit not more than ~~ninety (90~~one hundred twenty (120) days prior to the member's termination ~~of employment, unless a greater time period is specified in Neb. Rev. Stat. § 79-902(26).~~date.

003.03 Distribution Amount

003.03(a) Except as provided in subsection (b) of this section, a refund or termination benefit shall consist of the member's entire employee account balance.

003.03(b) A refund to the sole beneficiary of the member who is the surviving spouse of the member as described in Neb. Rev. Stat. § 79-956(2)(a) and (3)(a) shall also include an amount equal to 101% of the member's account balance.

003.04 Timing of Distribution

003.04(a) Distribution of a refund to a member shall ~~(1)~~ not occur ~~earlier than~~ before the later of (1) four (4) calendar months after the member's termination date~~,~~ and (2) ~~no sooner than~~ twenty ~~-~~ (20) business days after NPERS receives a completed and valid application for a refund.

003.04(b) Distribution of a refund to the beneficiary of a deceased member shall not occur earlier than twenty (20) days after the member's death.

003.05 If the member returns to employment with an employer participating in the School Plan within 180 calendar days of the member's termination date, the member shall be required to repay the entire amount of the refund or termination benefit received. Payment shall be made as soon after returning to work as is practicable and within two (2) years of returning to employment. If the Director determines repayment within two (2) years will create a hardship for the member, then such repayment shall be completed within four (4) years of returning to employment.

004 Judges and Patrol Plans

004.01 No refund or termination benefit shall be made until the employer has provided to NPERS proof that the member has terminated employment.

004.02 A member may file an application for a refund or termination benefit not more than ninety (90) days prior to the member's termination ~~of employment~~date.

004.03 A refund or termination benefit shall consist of the member's entire employee account balance.

004.04 Timing of Distribution

004.04(a) Distribution of a refund to a member shall not occur ~~(1) earlier than~~ before the later to occur of (1) sixty~~-~~ (60) calendar days after the member's termination date, and (2)~~ no sooner than~~ twenty~~-~~ (20) business days after NPERS receives a completed and valid application for a refund.

004.04(b) Distribution of a refund to the beneficiary of a deceased member shall not occur sooner than twenty (20) days after the member's death.

004.04(c) Subsection 004.04 does not apply to the deferred retirement option plan (DROP) provided in Neb. Rev. Stat. § 81-2041.

004.05 If the member returns to employment with an employer participating in the plan from which the member has taken a refund or termination benefit within 120 calendar days of the termination date, then the member shall repay the entire amount of the refund or termination benefit received. Payment shall be made as soon after returning to work as is practicable and within two (2) years of returning to employment. If the Director determines repayment within two (2) years will create a hardship for the member, then such repayment shall be completed within four (4) years of returning to employment.

005 County and State Plans

005.01 No refund or termination benefit shall be made until the employer has provided NPERS proof that the member has terminated employment.

005.02 A member may file an application for a refund or termination benefit not more than ninety (90) days prior to the member's termination ~~of employment~~date.

005.03 Timing of Distribution

005.03(a) Distribution of a refund to a member shall not occur earlier than forty-five (45) calendar days after the member's termination date.

005.03(b) Distribution of a refund to the beneficiary of a deceased member shall not occur earlier than twenty (20) days after the member's death and shall not occur before the date of final account value.

005.04 Distribution Amount

005.04(a) Distribution of a refund or termination benefit to a cash balance member or a beneficiary of a cash balance member shall comprise the entire account balance the member is entitled to as determined on the date of final account value.

005.04(b) Distribution of a refund or termination benefit to a defined contribution member or the beneficiary of a defined contribution member may include all or a portion of the member's account balance.

005.05 If a member returns to employment and is subject to participation in the plan from which the member has taken a refund or termination benefit within 120 days of the date of termination, then the member shall repay the entire gross amount of the refund or termination benefit received. Payment shall be made as soon after returning to work as is practicable and within two (2) years of returning to employment. If the Director determines repayment within two (2) years will create a hardship for the member, then such repayment shall be completed within four (4) years of returning to employment.

006 Required Distributions

In each of the plans identified in section 001 above, the distribution requirements enacted pursuant to the Required Minimum Distribution provisions of 26 United States Code 401(a)(9), federal regulations promulgated under that statute, and Title 303 Nebraska Administrative Code Chapter 24 rules shall apply, unless provisions of the plan impose more restrictive distribution requirements.

007 Distributions to U.S. Citizens Living Abroad

Members who are United States citizens living abroad or green card holders living abroad are unable to reject income tax withholding from their refund or termination benefit distributions.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 23-2305.01, 23-2323.02, 24-704.01, 24-710.05, 79-904.01, 79-933.01, 81-2019.01, 81-2031.03, 84-1305.02, 84-1312, and 84-1503.