

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 CREDIT**

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NEBRASKA ADMINISTRATIVE CODE
TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 15 – PURCHASE OF SERVICE CREDIT

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 15 – PURCHASE OF SERVICE CREDIT

001 Scope of the Rule

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

002 General Provisions

002.01 The Nebraska Public Employees Retirement Systems ('NPERS'), 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 Public Employees Retirement Systems.

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

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.

002.04 Except with respect to the School Employees Retirement Plan, 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. 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.

002.05 For the School Employees Retirement 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. 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 actuarial cost shall be those adopted by the Retirement Board as recommended by the actuary.

002.06 [RESERVED]

002.07 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.

002.08 Receiving Payments For Refunded Service.

002.08(a)(i) A former member of the School Retirement System who once again becomes a contributing member of the School Retirement System as a result of reemployment prior to April 17, 2014, must complete repayment of a refund pursuant to Section 003 hereof prior to the earlier of such member's termination of employment or April 17, 2020.

002.08(a)(ii) A former member of the School Retirement System who once again becomes a contributing member of the School Retirement System as a result of reemployment on or after April 17, 2014, must complete repayment of a refund pursuant to Section 003 hereof prior to the earlier of such member's termination of employment or the fifth anniversary of such member's date of reemployment.

002.08(b) For the Judges Plan and Patrol Plan, all payments must be received by NPERS 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.

002.09 For purposes of this regulation, employment shall mean an employee's first date of compensated service provided to a covered employer. Reemployment shall mean being rehired and once again becoming a contributing member of the School Retirement System after having previously terminated employment with a covered employer.

002.10 In order to purchase service credit, the member must file a detailed application to purchase service on a form prescribed by NPERS, before payments will be accepted. To allow sufficient processing time the application must be received by NPERS at least sixty (60) days before the member experiences a termination of employment. NPERS may waive this requirement in its sole discretion under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.

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.

002.12 Code shall mean the Internal Revenue Code, as amended.

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, mandatory contributions withdrawn for service years.

003 Repayment of Refund (School Plan Members Only)

003.01 General Provisions.

003.01(a) Except as otherwise provided in this Section 003, all general provisions in Section 002 and methods of purchasing service as defined in Section 007 in this regulation will apply to the restoration of relinquished creditable service by repayment of a refund.

003.01(b) From and after April 17, 2014, the cost of repaying a refund with respect to a member of the School Retirement System will be an amount equal to the member contributions for the years of relinquished creditable service being repurchased, plus interest in an amount equal to the actuarial assumed rate of return on such amount to the date of repayment. A member must be a contributing member after reemployment in order to repay a refund.

003.01(c) Refunded service must be purchased from oldest fiscal year to newest fiscal year and the member must purchase the exact amount of creditable service earned in each fiscal year. Fiscal years where creditable service was not earned will not be included in the repayment of a refund.

003.01(d) Before the repayment of a refund will be processed by NPERS, the member's service must be verified.

003.02 Initiating a Refund Inquiry.

003.02(a) From and after reemployment, a contributing member may initiate a request for the repayment of a refund by making a verbal or written inquiry to NPERS (a "refund inquiry"). NPERS will respond to refund inquiries in the order received, provided that priority may be given to refund inquiries from members who are within one year of retirement. NPERS' response times with respect to refund inquiries will depend on the volume of inquiries, availability of agency resources, staffing levels and competing agency priorities.

003.02(b) In response to a refund inquiry, NPERS will calculate an estimated cost for the amount of relinquished creditable service the member proposes to restore by repayment of a refund (a "cost estimate"). NPERS will deliver the cost estimate to the member via first class mail or other reliable means. In addition to the cost estimate, NPERS' response to the refund inquiry will also include an application for purchase of refunded service, method of payment form, rollover form and/or such other documentation as may be necessary.

003.03 Filing and Processing of an Application Purchase of Refunded Service.

003.03(a)(i) If the member wishes to proceed with the repayment of a refund after receiving a cost estimate, the member must deliver a valid and complete application for purchase of refunded service to NPERS prior to the applicable date set forth in Section 002.08 hereof. If the member responds to the cost estimate by delivering to NPERS something other than a valid and complete application, NPERS will inform the member in writing of the deficiency in the application.

003.03(a)(ii) For purposes of this Chapter 15, “valid and complete application” means the delivery by a member to NPERS of a completed application for purchase of refunded service, completed method of payment form and (if required) a completed rollover form, including all signatures and any attachments necessary for NPERS to complete the processing of such application.

003.03(b) NPERS will process valid and complete applications for purchase of refunded service in the order received, provided that priority may be given to applications from members who are within one year of retirement. NPERS’ response times with respect to valid and complete applications for purchase of refunded service will vary, depending on the volume of applications, availability of agency resources, staffing levels and competing agency priorities. It is the member’s responsibility to deliver a valid and completed application to NPERS within a sufficient time to permit processing of the application and completion of payment by before expiration of timeframes set forth in Section 002.08 hereof.

003.03(c) After determining that the member has submitted a valid and complete application for purchase of refunded service, including all necessary signatures, NPERS will calculate and send to the member, via first class mail, a written report of the actual cost for the relinquished creditable service to be restored by the member (an “actual cost report.”).

003.04 Payment For Restoration Of Relinquished Creditable Service

003.04(a) A member’s payment for the restoration of relinquished creditable service may be made via a lump sum direct payment to NPERS, installment payments, irrevocable payroll deduction authorization, cash rollover or trustee-to-trustee transfer.

003.04(b)(i) If repayment of a refund is to be made via lump sum direct payment, rollover or trustee-to-trustee transfer, full payment must be received by NPERS on or before the payment date set forth in the related actual cost report, which date shall be no later than the applicable date set forth in Section 002.08(a) hereof. Failure by the member to make full payment by the required date will result in recalculation of the amount due or termination of the member’s application for purchase of refunded service. Subject to Section 002.08(a) hereof, NPERS may, in its sole discretion, permit a grace period beyond the payment date set forth in the actual cost report, under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.

003.04(b)(ii) If the repayment of a refund is to be made via consecutive installment payments or irrevocable payroll deduction authorization, such payments must be made in compliance with the schedule set forth in the actual cost report and all required payments must be received by NPERS on or before the earlier of the applicable date set forth in Section 002.08(a) hereof. Failure by the member to make each payment in compliance with the schedule set forth in the actual cost report will result

in termination of the member's application for purchase of refunded service. Subject to Section 002.08(a) hereof, NPERS may, in its sole discretion, permit a grace period with respect to such payment schedule under appropriate circumstances based on the volume of pending inquiries and applications, availability of agency resources, staffing levels and competing agency priorities.

003.05 One Time Election

Each member of the School Employees Retirement System shall be permitted to submit only one application for purchase of refunded service on or after April 17, 2014.

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

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.

004.02 All general provisions in Section 002 and methods of purchasing service as defined in Section 007 of this regulation will apply to the purchase of out-of-state service.

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

004.04 The cost of purchasing out-of-state service is the actuarial cost of the service incurred by the School Employees Retirement System for allowing such additional service credit to the employee.

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 School Employees Retirement Plan. 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 that had been purchased by the member but which is eliminated under this regulation. No interest shall be paid on the refund.

004.06 Fractional years of out-of-state service for a member of the Nebraska School Retirement System may be purchased.

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.

005 Leave of Absence (School Plan Members Only)

005.01 All general provisions in Section 002 and methods of purchasing service as defined in Section 007 of this regulation will apply to the purchase of service for a leave of absence, as defined by law.

005.02 Verification of the leave, as approved by the school employer, must be received by NPERS 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.

005.03(a) The cost of purchasing service credit for a leave of absence is computed actuarially unless subsection 005.03(b) of this section applies.

005.03(b) 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 (3) 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 contributions that would have accrued.

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 007 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.

007 Payment Methods

007.01 Installment Method

007.01(a) Members electing to purchase optional service credit with the installment method may choose tax deferred payroll deduction or direct after-tax installment payments. Payments made are subject to IRS code section 415 annual limits. If the contributions qualify as a repayment of original mandatory contributions as described under section 002 of this regulation the section 415 limits do not apply.

007.01(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. 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.

007.01(c) Direct after tax installment payments made to NPERS by the member must be by cashier's check, bank draft or money order. Personal checks will not be accepted except for de minimus amounts in order to meet a purchase cost.

007.01(d) A member may elect to purchase service through payroll deduction pursuant to an irrevocable payroll deduction agreement with the member's employer that 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 NPERS before payments may begin. 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's contributions for his or her service purchases.

007.01(e) Notwithstanding anything to the contrary in this Chapter 15, NPERS will accept payments made via payroll deduction after the member's last working day, through and including the member's final paycheck, if the member's employment contract calls for part of the member's compensation to be paid in arrears after the member's last working day.

007.01(f) 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.

007.01(g) 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.

007.01(h) 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.

007.01(i) 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.

007.02 Rollovers

007.02(a) Consistent with the Internal Revenue Code, NPERS 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:

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

007.02(a)(ii) A code section 403(a) or (b) tax sheltered annuity account.

007.02(a)(iii) A code section 408(a) individual retirement account (IRA) or a code section 408(b) individual retirement annuity.

007.02(a)(iv) A code section 457(b) deferred compensation plan.

007.02(b) A rollover or transfers from a qualifying tax-deferred account will not be accepted by NPERS without the member certifying that the originating rollover/transfer account has maintained its proper tax qualification conditions under the applicable sections of the Internal Revenue Code.

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

007.02(d) The amount of the rollover payment accepted by NPERS will be based on the cost of the service purchased and determined only by NPERS. Funds in excess of the actual purchase cost will not be accepted.

007.02(e) All other federal tax laws governing eligible rollover distributions shall apply.

007.03 Lump Sum Payments

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

007.03(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 of this regulation the code section 415 limits do not apply.

007.03(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. If a member's lump sum after-tax payment ultimately exceeds the applicable code section 415 limit, the excess shall be refunded to the employee and the service credit adjusted accordingly.

007.03(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 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 to use the installment method to complete the payments.

007.03(e) Payments will only be accepted via cashier's check, bank draft or money order. Personal checks will not be accepted as payment except for de minimus amounts in order to meet a purchase cost.

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.