

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE D: RETIREMENT SYSTEMS
 CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540
 THE ADMINISTRATION AND OPERATION OF THE
 STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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79
80 AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40
81 ILCS 5].
82

83 SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February
84 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill.
85 Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page
86 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981;

87 amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective
 88 October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill.
 89 Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill.
 90 Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677,
 91 effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency
 92 amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at
 93 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300
 94 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective
 95 July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a
 96 maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill.
 97 Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990;
 98 amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective
 99 September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency
 100 amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended
 101 at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187,
 102 effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective
 103 December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23
 104 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1,
 105 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090,
 106 effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency
 107 amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended
 108 at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775,
 109 effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective
 110 November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30
 111 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21,
 112 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33
 113 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired
 114 November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34
 115 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014;
 116 emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150
 117 days; emergency amendment modified in response to Joint Committee on Administrative Rules
 118 Objection at 39 Ill. Adm. Code 5626, effective April 7, 2015, for the remainder of the 150 days;
 119 amended at 39 Ill. Reg. 9582, effective June 26, 2015; amended at 41 Ill. Reg. 4217, effective
 120 March 22, 2017; amended at 42 Ill. Reg. 9568, effective May 29, 2018; emergency amendment
 121 at 42 Ill. Reg. 21436, effective November 13, 2018, for a maximum of 150 days; amended at 43
 122 Ill. Reg. 768, effective December 19, 2018; amended at 43 Ill. Reg. 3965, effective March 18,
 123 2019; amended at 43 Ill. Reg. 9252, effective August 16, 2019; amended at 44 Ill. Reg. 534,
 124 effective December 27, 2019; amended at 44 Ill. Reg. 7888, effective April 27, 2020; amended at
 125 44 Ill. Reg. 11172, effective June 19, 2020; amended at 44 Ill. Reg. 19510, effective December
 126 2, 2020; amended at 45 Ill. Reg. 3023, effective February 26, 2021; amended at 45 Ill. Reg.
 127 6848, effective May 24, 2021; amended at 45 Ill. Reg. 9547, effective July 19, 2021; amended at
 128 46 Ill. Reg. 4100, effective February 23, 2022; amended at 46 Ill. Reg. 6945, effective April 21,
 129 2022; amended at 46 Ill. Reg. 14779, effective August 22, 2022; amended at 46 Ill. Reg. 19224,

effective November 18, 2022; amended at 47 Ill. Reg. 3530, effective February 22, 2023; amended at 47 Ill. Reg. 8026, effective May 24, 2023; amended at 47 Ill. Reg. 13138, effective August 22, 2023; amended at 47 Ill. Reg. 16043, effective October 26, 2023; amended at 48 Ill. Reg. 7844, effective May 7, 2024; amended at 48 Ill. Reg. 13838, effective August 27, 2024; amended at 49 Ill. Reg. 2543, effective February 20, 2025; amended at 49 Ill. Reg. 12173, effective September 9, 2025; amended at 50 Ill. Reg. _____, effective _____.

Section 1540.50 Credit for Service for Which Contributions are Permitted

a) Exercise of Option

- 1) For purposes of purchasing certain service credit provided for in the Act, any member of the System as defined in such Act who meets the requirements shall be eligible to exercise any of the service credit options provided for therein.
- 2) This privilege shall not apply to service representing previous employment periods which had not been credited at the time of acceptance of a refund until repayment of such refund.
- 3) This privilege shall not apply to a member, if, at the time of entering into an agreement with the System for the purchase of service credit on or after January 1, 2026, has an overdue obligation to repay the System for amounts owed to the System.

b) Credit and Contribution Basis

Credit for such periods shall be the amount of credit earned during the period of employment for which contributions are made. Contributions for such periods together with the required interest shall be made as provided for in the Act and this Part before any credit is granted.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1540.80 Disability Claims

a) Nonoccupational Disability and Temporary Disability

- 1) Any member of the State Employees' Retirement System (SERS) claiming benefits for nonoccupational disability or temporary disability shall file at the Springfield Office of SERS a written application on forms prescribed by the Board.
- 2) If a member makes a payment of contributions to SERS in order to

establish sufficient credit to qualify for a nonoccupational disability benefit, payment of the benefit shall accrue as of the latter of the 31st day of absence from work (including any periods of the absence for which sick pay was received), the day after the member is last entitled to receive compensation (including any sick pay), or the date of payment to SERS. The date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment). If a member is receiving a nonoccupational disability benefit, and incurs a concurrent sickness or condition that is severe enough to disable the member past the period in which the member is disabled from the original sickness or condition, the nonoccupational benefit would continue uninterrupted and the member would not be required to obtain a new leave of absence or incur a new 30 day waiting period. A benefit will continue uninterrupted in the manner described only if the member is otherwise eligible for the benefit and a licensed healthcare professional's report is provided and supports the disabling sickness or condition.

- 3) If a member makes a payment of contributions to SERS in order to establish sufficient credit to qualify for a temporary disability benefit, payment of the benefit shall accrue as of the latter of the 31st day after the member is last entitled to receive compensation or the date of payment to SERS. The date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment).
- 4) If a member who is receiving a nonoccupational or temporary disability benefit wishes to make a payment of contributions to extend the period of eligibility for receipt of the benefit, the request to make the payment must be received at the Springfield Office of SERS before the period of eligibility terminates and the date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment).
- 5) If a member requests to have service credits under the State Universities Retirement System (SURS) or the Teachers' Retirement System of the State of Illinois (TRS) considered for the purposes of determining nonoccupational or temporary disability benefit eligibility under Section 14-124 or 14-123.1 of the Illinois Pension Code, or for purposes of calculating the total period of time for which benefit will be paid, SERS shall not include in its calculations any credits accrued under Article 15 or 16 of the Code that have been forfeited by acceptance of a refund or applied toward a retirement annuity and that have not been restored or otherwise reestablished in accordance with the requirements of those

Articles of the Code. Credits accrued under Article 15 or 16 of the Code that have been forfeited by acceptance of a refund or applied toward a retirement annuity, and that have not been restored or otherwise reestablished in accordance with the requirements of those Articles of the Code, shall not be considered for purposes of determining eligibility for a nonoccupational or temporary disability benefit under Section 14-124 or 14-123.1 of the Illinois Pension Code (Code) [40 ILCS 5] or in determining the total period of time for which such a benefit is payable.

- 6) The System may deem the requirement of Section 14-124(4) of the Code to be satisfied with respect to a member if the member who is applying for a nonoccupational disability benefit is eligible to be granted a leave of absence for disability but, before the leave could be granted, upon medical examination, the member is found to be permanently and totally incapacitated to perform the duties of the member's position.

b) Occupational Disability

Any member of SERS claiming benefits for occupational disability shall file at the Springfield Office of SERS a written application on forms prescribed by the Board.

c) Licensed Healthcare Professionals

Before an occupational, nonoccupational or temporary disability benefit can be approved, one statement must be received from a licensed healthcare professional attesting to the disability. An additional statement from a second licensed healthcare professional may be required by the disability examiner assigned to the case, depending on the nature of the disabling condition.

d) Report of Licensed Healthcare Professionals

- 1) All reports provided to the System by a licensed healthcare professional shall contain, among other things, the date and place of the first examination by the licensed healthcare professional, the cause and nature of the member's disability, information regarding surgical work or laboratory tests performed for the member, the date of last examination by the licensed healthcare professional, prognosis regarding the member's disability, an estimate of the probable length of the member's disability, and the licensed healthcare professional's license number.

- 2) All licensed healthcare professional's reports shall be signed by a licensed healthcare professional or by medical records personnel employed by or acting pursuant to the direction of the licensed healthcare professional.

- e) Suspension and Termination for Gainful Employment
The occupational, non-occupational, and temporary disability benefits that are payable to members under Article 14 of the Illinois Pension Code are subject to suspension and termination for gainful employment in accordance with Section 1540.85.
- f) Investigation of Claims
 - 1) The SERS Board of Trustees recognizes its obligation to provide a systematic program for the continued investigation, control and supervision of disability claims.
 - 2) Each disability benefit recipient is required to provide a current medical examination report every 6 months to substantiate continued disability. In order to substantiate the member's continued eligibility for disability benefits, the Disability Claims Examiner may require that the member submit to independent medical examinations and may request additional medical statements; hospital records; activity inspection reports; Department of Employment Security Earning Statements; Social Security benefit payment information; income tax records; or other pertinent information, all as deemed reasonable and necessary by the Examiner. SERS may waive the medical examination report requirement for cases in which the evidence supports that a member is permanently disabled and that the member will never be able to return to their former position.
 - 3) Failure of a disability benefit recipient to submit to an independent medical examination, to cooperate with an activity inspection, or to provide the information required shall result in suspension of benefit payments.
 - 4) Any benefit suspended as a result of a medical examination will be suspended on the last day of the month in which the claim is reviewed by the Executive Committee.
 - 5) The System may direct a covered employee who is receiving a nonoccupational or temporary disability benefit from the System and who is eligible under the federal Social Security Act (42 U.S.C. 7) for a disability benefit before attaining the Social Security full retirement age to file a claim for benefits under the federal Social Security Act so that the amount of the Social Security offset to the System-provided disability benefit can be calculated as provided in Sections 14-123.1 and 14-125 of the Code. If an employee does not file a claim for Social Security benefits within 30 days after receiving written direction from the System to do so,

then the payment of the System-provided disability benefit shall be suspended until the member files such a claim.

- 6) Any person who applies for or who is receiving disability benefits and knowingly makes to SERS any false statement, falsifies or permits to be falsified any record submitted to SERS, or omits pertinent information in an attempt to defraud SERS, shall have the benefit suspended until the correct information has been provided to SERS.
 - A) If the correct information that is provided does not substantiate eligibility for the disability benefit payments, then the benefit shall be terminated.
 - B) If it is determined that the person omitted pertinent information and the correct information that is provided supports that the individual is gainfully employed, then the process prescribed in subsection (e) shall determine if the benefit payments shall resume.
 - C) If it is determined that the person knowingly made to SERS a false statement, or falsified or permitted to be falsified any record submitted to SERS, in an attempt to defraud SERS and the correct information that is provided supports that the individual is gainfully employed, then the benefit shall be terminated.
- g) A disability benefit claim will be processed after the date that the final payroll payment received by the member has been posted to SERS' accounting database.
- h) When calculating the amount of a nonoccupational, occupational, or temporary disability benefit under Section 14-123, 14-123.1, or 14-125 of the Code, the "date of disability" or "time disability occurred" is the date the member is removed from payroll by virtue of being placed on disability leave.
- i) When calculating the final average compensation of a disability benefit claim, the calculation shall include the actual compensation received during the month in which the member left the regular payroll.
- j) Any individual receiving an occupational disability benefit under Section 14-123 of the Code who remains disabled at the end of the month in which that benefit ceases under paragraph (3) or (4) of Section 14-123 shall become entitled to a retirement annuity and have the minimum period of service prescribed for the receipt of such annuity waived as described in that Section. The disability benefit described in this subsection (j) applies regardless of whether the member first became a member on or after January 1, 2011.

k) In accordance with Section 14-125.1 of the Code, occupational and nonoccupational disability benefits will be increased by 7% or 3% of the original fixed amount on January 1 following the fourth anniversary of the granting of the benefit. For purposes of section 14-125.1 of the Code and this subsection (k), "the fourth anniversary of the granting of the benefit" means that a member receives disability benefit payments for 48 consecutive months without an interruption due to suspension.

l) A temporary disability benefit that converts to either a nonoccupational or an occupational disability benefit in the manner prescribed under Section 14-123.1 of the Code shall, for the purposes of Sections 14-123 or 14-124 of the Code, be deemed either as a nonoccupational or an occupational disability benefit.

m) The 5-year limitation prescribed under Sections 14-123(b)(4), 14-123.1(b)(4), and 14-124(c) of the Code shall not be disrupted by the suspension of the disability benefit claim previously granted, if applicable.

n) Definitions

As used in this Section:

"Code" means the Illinois Pension Code [40 ILCS 5].

"Full retirement age" means the age at which an individual is eligible to receive full Social Security retirement benefits.

"The duties of the member's position" means the duties of the member's position as of the date the member's name is removed from the payroll without regard to subsequent changes in the duties of the position, availability of the position, or the member's right to return to the position.

"Licensed healthcare professional" means any individual who is licensed by the Department of Financial and Professional Regulation as a physician under the Medical Practice Act of 1987 [225 ILCS 60], as a physician assistant under the Physician Assistant Practice Act of 1987 [225 ILCS 95], as a psychologist under the Clinical Psychologist Licensing Act [225 ILCS 15], or as an advanced practice registered nurse under the Nurse Practice Act [225 ILCS 65] or who is licensed or otherwise credentialed by the licensing body of another state as a physician, physician assistant, clinical psychologist, or advanced practice registered nurse under the laws of that state.

"Licensed healthcare professional's license number" means the unique license number, registration number, or other identifier issued by the federal Centers for Medicare and Medicaid Services, the Department of Financial and Professional Regulation, or the licensing body of another state to an individual who is licensed or otherwise credentialed by the Department of Financial and Professional Regulation or the licensing body of another state, as a licensed healthcare professional.

"Member", for purposes of Sections 14-123, 14-123.1, and 14-124 of the Code, means an employee in active service at the time of incurring a disabling condition.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1540.270 Written Appeals and Hearings

a) Definition of Terms

"Authorized Representative" – a person representing a Petitioner in a written appeal or hearing.

"Executive Committee" – a committee consisting of one member of the Board of Trustees, the Chairperson of the Board or the Chairperson's designee, and the Executive Secretary of SERS or the Secretary's designee, which shall meet periodically for the purpose of hearing all administrative contested matters and making recommendations to the Board of Trustees who shall make the final decision. At any time, the Chairperson of the Board or the Executive Secretary of SERS may appoint an alternate designee to serve on the committee in place of the designee that the Chairperson or Secretary has previously appointed.

"Executive Secretary" – the person designated as the official custodian of all papers and documents filed in proceedings before the Executive Committee.

"Hearing" – the reconsideration by the Executive Committee of the initial disposition of a claim, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"Hearing Officer" – a member of the Executive Committee or an attorney retained by the Executive Committee for the purpose of conducting hearings and communicating the Executive Committee's findings of fact, conclusions of law, and recommendation to the Board of Trustees.

"Legal Action" – any action, following the final denial by the Board of Trustees,

in which a member is seeking relief in State or federal court for a disputed claim.

"Petition" – a written request made by a Petitioner or Authorized Representative for a hearing, a written appeal, a rehearing, or a written reappeal before the Executive Committee.

"Petitioner" – an individual who requests by Petition:

a hearing or a written appeal before the Executive Committee for reconsideration of the initial disposition of a claim; or

a rehearing or written reappeal before the Executive Committee for reconsideration of the disposition of a hearing or written appeal.

"Rehearing" – the reconsideration by the Executive Committee of the disposition of a hearing or written appeal, at which the Petitioner appears in person or by an Authorized Representative, either at the hearing or by video or audio conference.

"System" – the State Employees' Retirement System of Illinois.

"Video or Audio Conference" – hearing or rehearing before the Executive Committee for which the Petitioner or Authorized Representative is not physically present and the proceeding before the Executive Committee is conducted through video and audio technology.

"Written Appeal" – the reconsideration by the Executive Committee, based upon written evidence, of the initial disposition of a Petitioner's claim, at which the Petitioner does not appear either in person or by an Authorized Representative.

"Written Reappeal" – the reconsideration by the Executive Committee, based upon written evidence, of the disposition of a hearing or written appeal, at which the Petitioner does not appear either in person or by an Authorized Representative.

b) Administrative Determination

The administrative staff of the System shall be responsible for the daily functioning of the System, including the processing of all claims for benefits payable by the System, all claims for service credits granted by the System, and all claims against or relating to the System.

c) Right of Appeal

Any member, annuitant or beneficiary adversely affected by the initial disposition of a claim by the System's staff may have the disposition of the claim

reconsidered either at a hearing before the Executive Committee or by filing a Written Appeal with the Executive Committee.

d) Written Appeals to Executive Committee

1) Communication to Executive Committee

All Petitions for Written Appeal shall be directed to the Executive Secretary of SERS at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

2) Form of Written Appeal

A Petition for a Written Appeal shall set forth the name and address of the Petitioner, the name and address of the Petitioner's Authorized Representative if applicable, a brief statement of the facts forming the basis of the written appeal, which must include any new or additional evidence, and the relief sought.

3) Disposition of Written Appeal

A) The Executive Committee shall consider a Petition for Written Appeal at the next regular meeting of the Executive Committee more than 15 days after the receipt of the Petition.

B) Following the written appeal and the receipt of all supplemental material requested, the recommendation of the Executive Committee shall be communicated in writing to the Petitioner and Authorized Representative, if applicable, and the appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.

4) Continuances and Extensions of Time

Continuances and extensions of time shall be granted by the Executive Committee when it is demonstrated that obtaining and presenting additional evidence is necessary to render a fair and equitable decision on the written appeal before the Committee.

5) Minutes and Records of Written Appeals

A) Minutes of every meeting of the Executive Committee and a record of all written appeals before the Executive Committee shall be kept by the Executive Secretary of SERS at its Springfield Office.

B) The Executive Secretary of SERS shall be the official custodian of

all papers and documents filed in proceedings before the Executive Committee.

e) Hearings Before the Executive Committee

1) Communication to the Executive Committee

All Petitions for Hearings shall be made to the Executive Secretary of SERS at its Springfield Office and must be received within 30 days following the notification of the initial disposition of the claim.

2) Appearance

Any Petitioner or Authorized Representative may appear at a hearing before the Executive Committee, either in person or by video or audio conference.

3) Form of Petition

Petitions may be informal or formal and shall be presented by letter or other writing. A petition shall set forth the name and address of the Petitioner, the name and address of the Authorized Representative, if applicable, a brief statement of the facts forming the basis of the petition, which must include any new or additional evidence and the relief sought.

4) Notice of Hearing

Upon scheduling of a hearing before the Executive Committee, a Petitioner shall be provided with written notice of: the date, time and place of the hearing; the subject matter of the hearing; and relevant procedural and substantive statutory and regulatory provisions. Notice of the hearing shall also inform the Petitioner that the Petitioner will be afforded the opportunity to provide a statement of the Petitioner's position, present oral evidence, and conduct examination and cross-examination of witnesses as necessary for full and true disclosure of the facts. In the absence of the Petitioner, the Executive Committee will consider the Petitioner's Petition and such other matters as may be properly brought before it at the hearing.

5) Prehearing Conferences

A) Upon written request by the Executive Committee or a Petitioner or Authorized Representative, a conference shall be conducted for the purpose of formulating issues and considering:

i) The simplification of issues;

ii) The amendment of pleadings;

- iii) The making of admissions of facts or stipulations for the purpose of avoiding the unnecessary introduction of evidence;
 - iv) The procedure at the hearing;
 - v) The limitation of the number of witnesses; and
 - vi) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- B) The persons attending the prehearing conference may enter into a written stipulation as to matters decided in the prehearing conference.
- C) No minutes shall be kept of the prehearing conference. Facts disclosed in the course of the prehearing conferences are privileged and, except by agreement, shall not be used against the Petitioner or any other party attending the prehearing conference either before the Executive Committee or elsewhere unless fully substantiated by other evidence.
- 6) Conduct of Hearings
- A) Hearings shall be conducted before the Executive Committee by the Hearing Officer and shall be of an informal nature.
- B) The Hearing Officer shall direct all parties to enter their appearances on the record. The Hearing Officer shall conduct a full and fair hearing, receive testimony of the claimant and admit exhibits into evidence, avoid delay, maintain order and make a sufficient record for a full and true disclosure of the facts and issues. To accomplish these ends, the Hearing Officer shall make all procedural and evidentiary rulings necessary for the conduct of the hearing.
- C) Parties may, by written stipulation, agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding.
- D) Irrelevant material or unduly repetitious evidence shall be excluded.

- 7) Documentary Evidence
Whenever possible, documents and exhibits shall be introduced by stipulation of the parties. Originals of documents shall be introduced into evidence with leave of the Hearing Officer to substitute the originals with copies. Whenever possible, the parties shall interchange copies of exhibits or other pertinent material before the hearing at which they are to be offered.
- 8) Briefs and Oral Arguments
Written briefs and oral arguments shall be allowed at the request of the Petitioner. The time limitations upon the oral argument shall be determined by the Hearing Officer having regard to the magnitude and complexity of the issues involved and the other business of the Executive Committee. All testimony shall be taken under oath before an officer authorized to administer oaths by the laws of this State or of the United States or of the place where the testimony is to be given.
- 9) Disposition of Hearing
Following the hearing and receipt of all supplemental material requested, the Executive Committee, following its next scheduled meeting, shall communicate its recommendation in writing to the Petitioner and Authorized Representative, if applicable. The recommendation shall contain a sufficient statement of the facts, all necessary findings of fact and conclusions of law, and a suggested decision or decisions of the Board of Trustees. The appropriate action shall be implemented by the Executive Committee subject to the approval of the Board of Trustees.
- 10) Continuances and Extensions of Time
Continuances and extensions of time shall be granted by the Executive Committee or the Hearing Officer when it is demonstrated that obtaining and presenting additional evidence or witnesses is necessary to render a fair and equitable decision on the hearing before the Executive Committee.
- 11) Minutes and Record of Hearing
 - A) Minutes of every meeting of the Executive Committee and a record of all hearings before the Executive Committee shall be kept by the Executive Secretary of SERS at its Springfield Office.
 - B) Two records of proceedings shall be kept that shall be in the form of a non-verbatim bystander's record of the proceedings and either

a stenographic transcription or a tape recording. The record shall be available to the Petitioner or Authorized Representative prior to the Executive Committee making its recommendations.

- C) The Executive Secretary of SERS shall be the official custodian of all papers and documents filed in proceedings before the Executive Committee.

12) Disqualification; Ex Parte Communications

A) Disqualification

- i) A Hearing Officer or other member of the Executive Committee may be disqualified on grounds of bias or conflict of interest. A motion to disqualify a Hearing Officer or other member of the Executive Committee for bias or conflict of interest should be made to the Hearing Officer by any party to the hearing at least one week prior to the commencement of the hearing. The motion shall be heard, considered, and ruled upon by the Hearing Officer or, when necessary, by the Executive Committee at or prior to the commencement of the hearing. The movant shall have the burden of proof with respect to the motion to disqualify. Either an adverse ruling or the fact that a Hearing Officer or other member of the Executive Committee is an employee of the System or has a contract with the System, standing alone, shall not constitute bias or conflict of interest.
- ii) The Executive Director may not be called as a witness unless it is demonstrated that the Executive Director has relevant noncumulative personal knowledge of facts bearing upon the claim. The Executive Director may not be disqualified as a member of the Executive Committee on the basis that the Executive Director is responsible for the overall administration of the System.
- iii) In the event that the Executive Committee is reduced to fewer than two members, the Board President may appoint another person to the Executive Committee.

- B) *Ex Parte Communications Prohibited. Except in the disposition of matters that the System is authorized by law to entertain or*

dispose of on an ex parte basis, employees of the System and the members of the Executive Committee shall not, after receiving notice of a hearing in a contested matter, communicate, directly or indirectly, in connection with any issue of fact, with any party, or in connection with any other issue with any party, or the representative of any party, except upon notice and opportunity for all parties to participate. However, an employee of the System may communicate with other employees of the System and an employee of the System or member of the Executive Committee may have the aid and advice of one or more assistants. An ex parte communication received by any employee of the System and member of the Executive Committee shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. [5 ILCS 100/10-60]

- 13) The System will arrange for transcription services and incur the related costs for a hearing only if the petitioner's appeal relates to the System's application of a plan design provision in which there is a lack of clear guidance on how to apply such provision in that specific situation due to a lack of relevant precedents, or a conflict in existing legal interpretations.
- 14) If a petitioner fails to appear at a hearing when transcription services are requested, they will bear the cost associated with rescheduling or cancelling.

f) Rehearings and Written Reappeals

- 1) Purpose of Rehearing and Written Reappeal
The Executive Committee will grant a rehearing or written reappeal by majority approval only for the purpose of considering new or additional evidence not previously available.
- 2) Procedures for Rehearing
The procedures set forth in subsection (e) (Hearings Before the Executive Committee) shall apply to rehearings, except that a Petition for a Rehearing must be received within 90 days following the notification of

the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.

3) Procedures for Written Reappeal

The procedures set forth in subsection (d) (Written Appeals to Executive Committee) shall apply to written reappeals, except that a Petition for a Written Reappeal must be received within 90 days following the notification of the final decision of the Board of Trustees with respect to the recommendation of the Executive Committee.

g) Decisions of Board of Trustees

1) Decisions of the Board of Trustees shall be final administrative decisions subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

2) Communication to Petitioner

The decision of the Board of Trustees shall be communicated in writing to the Petitioner and Authorized Representative, if applicable.

h) A request for a retirement annuity or a refund of contributions shall be granted when legal action is pending on a disputed disability claim. Should the member receive a favorable decision on the legal action against the System and request additional disability benefits with regard to the disputed claim for a period beyond the effective date the retirement annuity or refund of contributions, the member must repay all retirement benefits or refund of contributions within 30 days after notification by the System of the amount due.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)

a) Definitions

1) The definitions in Section 1-119(a) of the Illinois Pension Code (Code) [40 ILCS 5] shall apply to this Section.

2) "Death Benefit" in Section 1-119(a)(2) of the Code includes a lump sum payment described in Sections 14-116, 14-117 and 14-128 of the Code.

3) "Member's Refund" in Section 1-119(a)(5) of the Code does not include an error refund as defined in subsection (a)(4) of this Section.

- 775 4) "Error Refund" as used in this Section includes:
776
777 A) a refund paid to a member as the result of an error in a payment to
778 the System;
779
780 B) an interest rebate; or
781
782 C) a refund paid to a member as the result of the member's failing to
783 complete the required contributions necessary to purchase or
784 reinstate service credit.
785
- 786 5) "Disability Benefit" in Section 1-119(a)(3) of the Code includes:
787
788 A) an occupational disability benefit under Section 14-123 of the
789 Code;
790
791 B) a temporary disability benefit under Section 14-123.1 of the Code;
792 or
793
794 C) a nonoccupational disability benefit under Section 14-124 of the
795 Code.
796
- 797 6) "Member's Retirement Benefit" as used in this Section means the total
798 amount of the retirement benefit as defined in Section 1-119(a)(8) of the
799 Code that would be payable to the member in the absence of a QILDRO.
800
- 801 7) "Partial Member's Refund" as used in this Section includes:
802
803 A) a refund of widow/survivor benefit contributions;
804
805 B) a refund of alternative formula contributions as a result of the
806 member not completing sufficient service to qualify for the
807 alternative formula retirement benefit; or
808
809 C) a refund of early retirement contributions.
810
- 811 8) "Permissive Service" in Section 1-119(a)(5.5) of the Code includes credit
812 purchased by the member for military service, leaves of absence, early
813 retirement incentives, contractual service, federal or out-of-state service,
814 visually handicapped service, legislative staff intern service and unused
815 sick and vacation time.
816

817 9) "Regular Service" in Section 1-119(a)(7.5) of the Code includes service
818 for which compensation was paid on a State payroll and purchased by the
819 member for a qualifying period, short periods of employment, full or
820 partial refund, emergency or temporary employment, and service credit
821 where the member previously opted not to participate in the System and
822 subsequently opted to purchase the service credit for the participation.
823

824 10) "Accelerated Retirement Benefit" means an accelerated pension benefit
825 payment under Sections 14-147.5 and 14-147.6 of the Code.
826

827 b) Requirements for a Valid Qualified Illinois Domestic Relations Order
828 The System will accept a court order as a valid Qualified Illinois Domestic
829 Relations Order, or QILDRO, that meets all of the following requirements:
830

- 831 1) The order must be accompanied by a \$50 non-refundable processing fee,
832 by check payable to the State Employees' Retirement System.
833
- 834 2) If the order applies to a person who became a member of the System
835 before July 1, 1999, the order must be accompanied by the original
836 Consent to Issuance of QILDRO signed by the member.
837
- 838 3) The order must be a certified copy of an original order dated on or after
839 July 1, 1999.
840
- 841 4) The order must have been issued by an Illinois court of competent
842 jurisdiction in a proceeding for declaration of invalidity of marriage, legal
843 separation, or dissolution of marriage that provides for the distribution of
844 property, or any proceeding to amend or enforce such a property
845 distribution, prior to the death of the member.
846
- 847 5) The order must contain the name, residence address, and Social Security
848 number of the member.
849
- 850 6) The order must contain the name, residence address, and Social Security
851 number of the alternate payee.
852
- 853 7) The order must identify the State Employees' Retirement System as the
854 retirement system to which it is directed.
855
- 856 8) The order must express any amount to be paid to the alternate payee from
857 a member's retirement benefit as a dollar amount per month or as a
858 percentage per month.
859

- 9) The order must express any amount to be paid to the alternate payee from a member's refund or partial refund as a dollar amount or as a percentage of the refund.
- 10) The order must express any amount to be paid to the alternate payee from a member's death benefit as a dollar amount or as a percentage of the death benefit.
- 11) The order must apply only to benefits that are statutorily subject to QILDROs as provided in Section 1-119(b)(1) of the Code.
- 12) The order and, if applicable, the Consent to Issuance of QILDRO must be in the form adopted by the System.
- 13) No language may be added to, or omitted from, the QILDRO form or the consent form adopted by the System.

c) Requirement for a Valid QILDRO Calculation Court Order
The System will accept a court order as a valid QILDRO Calculation Court Order or as a QILDRO Calculation Court Order that meets all of the following requirements:

- 1) The order must be accompanied by a \$50 non-refundable processing fee, with the check made payable to the State Employees' Retirement System.
- 2) The order must be a certified copy of an original order dated on or after July 1, 2006.
- 3) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution.
- 4) The order must contain the name, residence address, and Social Security number of the member.
- 5) The order must contain the name, residence address, and Social Security number of the alternate payee.
- 6) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.

- 7) The order must apply only to benefits that are statutorily subject to QILDRO Calculation Court Orders as provided in Section 1-119(b)(1) of the Code.
 - 8) The order must be in the form directed by Section 1-119 of the Code.
 - 9) No language may be added to, or omitted from, the QILDRO Calculation Court Order form adopted by the System.
 - 10) The QILDRO Calculation Court Order must not be completed in a manner that changes the intent of the QILDRO to which it relates.
- d) Required Form
- 1) A QILDRO/QILDRO Calculation Court Order must be in the form directed by Section 1-119 of the Code. The required QILDRO/QILDRO Calculation Court Order form is available from the System upon request or in PDF at www.state.il.us/srs.
 - 2) A QILDRO/QILDRO Calculation Court Order that is not in the form adopted by the System is invalid.
 - 3) A Consent to Issuance of QILDRO must be in the form adopted by the System as of the date that the QILDRO is received. The required consent form is available from the System upon request or in PDF at www.state.il.us/srs.
 - 4) A consent form that is not in the form adopted by the System is invalid.
- e) Filing a QILDRO with the System
- 1) A QILDRO should be sent to the System's Springfield Office, accompanied by the consent form, if applicable, and a \$50 non-refundable processing fee.
 - 2) A QILDRO will be deemed received by the System on the date that it is received in the System's Springfield Office.
 - 3) Within 45 calendar days after receipt of a QILDRO, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO. If the System determines that the order is not a valid QILDRO, the notice will specify the reason or reasons.

- 4) A QILDRO that has been modified by the issuing court should be submitted in the same manner as the original QILDRO. A separate \$50 non-refundable processing fee is required for each modified QILDRO.
- f) Filing a QILDRO Calculation Court Order with the System
- 1) A QILDRO Calculation Court Order should be sent to the System's Springfield Office, accompanied by a \$50 non-refundable processing fee.
 - 2) A QILDRO Calculation Court Order will be deemed received by the System on the date that it is received in the System's Springfield Office.
 - 3) Within 45 calendar days after receipt of a QILDRO Calculation Court Order, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO Calculation Court Order. If the System determines that the order is not a valid QILDRO Calculation Court Order, the notice will specify the reason or reasons.
 - 4) A QILDRO Calculation Court Order that has been modified by the issuing court should be submitted in the same manner as the original QILDRO Calculation Court Order. A separate \$50 non-refundable processing fee is required for each modified QILDRO Calculation Court Order. A modified QILDRO Calculation Court Order will not affect the priority of the QILDROs on file.
 - 5) No QILDRO Calculation Order (QCO) is required when the System receives a valid QILDRO that directs 100% of the gross payment amount to the alternate payee.
 - 6) No QILDRO Calculation Order (QCO) is required if the valid QILDRO directs a percentage of the gross amount of the death benefit to the alternate payee.
- g) Benefits Affected by a QILDRO
- 1) A QILDRO may apply only to the following benefits administered by the System:
 - A) a monthly retirement benefit;
 - B) a member's termination refund;

- 989
- 990 C) a member's partial refund;
- 991
- 992 D) a member's death benefit; and
- 993
- 994 E) a member's accelerated retirement benefit.
- 995
- 996 2) If a QILDRO specifies a dollar amount or percentage payable to an
- 997 alternate payee from any partial member's refund that becomes payable,
- 998 the aggregate amount paid to the alternate payee from all partial member's
- 999 refunds shall not exceed the dollar amount or percentage specified in the
- 1000 QILDRO.
- 1001
- 1002 3) A QILDRO shall not apply to any of the following:
- 1003
- 1004 A) a reversionary annuity that becomes payable following the death of
- 1005 the member;
- 1006
- 1007 B) a survivor benefit;
- 1008
- 1009 C) any disability benefit;
- 1010
- 1011 D) an error refund; and
- 1012
- 1013 E) any other benefit paid under Article 14 of the Code not specifically
- 1014 listed in subsection (g)(1) of this Section.
- 1015
- 1016 4) If the space provided on the QILDRO form for the dollar amount or
- 1017 percentage the alternate payee is to receive from the member's retirement
- 1018 benefit, member's refund, partial member's refund or death benefit is left
- 1019 blank, then the alternate payee will receive no portion of the benefit or
- 1020 refund for which the space is left blank.
- 1021
- 1022 h) Effect of a Valid QILDRO
- 1023
- 1024 1) Retirement Benefit
- 1025
- 1026 A) After the System has determined that a QILDRO applying to a
- 1027 retirement benefit on a dollar basis is valid, one of the following
- 1028 will occur:
- 1029
- 1030 i) If the member has not yet started receiving benefits, the
- 1031 QILDRO will be placed in the member's file and will be

- 1032 implemented when the first affected benefit payment
 1033 commences; or
 1034
- 1035 ii) If the member is already receiving benefits subject to the
 1036 QILDRO, payment to the alternate payee will begin with
 1037 the first payment to the member occurring at least 30 days
 1038 after the QILDRO is received.
 1039
- 1040 B) After the System has determined that a QILDRO applying to a
 1041 retirement benefit on a percentage basis is valid, that the member
 1042 has not retired, and that a QILDRO Calculation Court Order will
 1043 be needed, the following will occur:
 1044
- 1045 i) Within 45 days, the System will provide the information
 1046 required in Section 1-119(h)(1.5)(B) of the Code;
 1047
- 1048 ii) When the member requests a retirement benefit, within 45
 1049 days after the System receives all information necessary to
 1050 determine the actual benefit payable, the System will
 1051 provide the information required in Section 1-
 1052 119(h)(1.5)(C) of the Code; and
 1053
- 1054 iii) When the member requests a retirement benefit and there is
 1055 no QILDRO Calculation Court Order on file, the System
 1056 will advise the member and alternate payee of the need for
 1057 a QILDRO Calculation Court Order. The System will
 1058 determine an anticipated payment to the alternate payee
 1059 based on information in the QILDRO, if it is possible to do
 1060 so. The System will hold the alternate payee's anticipated
 1061 payment and pay the member's monthly retirement benefit,
 1062 less the amount held for the alternate payee, pending
 1063 receipt of the QILDRO Calculation Court Order. Once the
 1064 QILDRO Calculation Court Order is received, the System
 1065 will adjust the amounts payable in accordance with the
 1066 QILDRO Calculation Court Order and begin paying the
 1067 alternate payee. However, if it is not possible for the
 1068 System to determine an anticipated payment based only on
 1069 the QILDRO, then neither the member nor the alternate
 1070 payee will be paid until the QILDRO Calculation Court
 1071 Order is received. If the System holds an anticipated
 1072 payment for the alternate payee, then such payment will be
 1073 issued to the alternate payee upon receipt of a valid
 1074 QILDRO Calculation Court Order. The System shall not

adjust the anticipated payment for the alternate payee unless expressly directed by a valid Court order.

C) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, and that the member is receiving a retirement benefit, the following will occur:

- i) Within 45 days, the System will provide the information required in Section 1-119 (h)(1.5)(C) of the Code; and
- ii) If there is no QILDRO Calculation Court Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Court Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending receipt of the QILDRO Calculation Court Order. Once the QILDRO Calculation Court Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Court Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Court Order is received. If the System holds an anticipated payment for the alternate payee, then such payment will be issued to the alternate payee upon receipt of a valid QILDRO Calculation Court Order. The System shall not adjust the anticipated payment for the alternate payee unless expressly directed by a valid Court order.

2) Refund or Partial Refund

A) After the System has determined that a QILDRO applicable to a member's refund or partial member's refund is valid, one of the following will occur:

- i) If the QILDRO provides that the refund or partial refund will be allocated on a dollar amount basis and the member has not applied for a refund or partial refund, the QILDRO

- 1118 will be placed in the member's file and will be implemented
 1119 when payment of the affected refund or partial refund is
 1120 made;
 1121
- 1122 ii) If the QILDRO provides that the refund or partial refund
 1123 will be allocated on a percentage basis and a QILDRO
 1124 Calculation Court Order is not on file when the member
 1125 requests a refund or partial refund, the System will provide
 1126 the refund or partial refund amount to the member and
 1127 alternate payee and will advise of the need for a QILDRO
 1128 Calculation Court Order. The System will hold the refund
 1129 or partial refund until the QILDRO Calculation Court
 1130 Order is received;
 1131
- 1132 iii) If a refund application is pending when the System receives
 1133 a QILDRO that purports to apply to the refund but the
 1134 refund payment has not yet been vouchered, the System
 1135 will hold the portion of the refund that would be payable to
 1136 the alternate payee until it receives clarification from the
 1137 court as to whether the QILDRO is effective against that
 1138 pending refund. It is the member's or alternate payee's
 1139 responsibility to obtain clarification from the court and to
 1140 notify the System of the court's clarification; or
 1141
- 1142 iv) If a refund payment has already been vouchered when the
 1143 System receives a QILDRO that purports to apply to the
 1144 refund, the QILDRO shall not be effective against that
 1145 refund.
 1146
- 1147 B) "Vouchered", as used in subsection (h)(2)(A), means that the
 1148 voucher has been signed and dated, even though the warrant has
 1149 not been issued by the Office of the State Comptroller.
 1150
- 1151 3) Death Benefit
- 1152
- 1153 A) After the System has determined that a QILDRO applicable to a
 1154 member's death benefit is valid, one of the following will occur:
 1155
- 1156 i) If the QILDRO provides that the death benefit will be
 1157 allocated on a dollar amount basis and if the System has not
 1158 received notice of the member's death, the QILDRO will
 1159 be placed in the member's file and will be implemented
 1160 when payment of the affected death benefit is made;

ii) If the QILDRO provides that the death benefit will be allocated on a percentage basis and a QILDRO Calculation Court Order is not on file when the System is notified of the death of the member, the System will provide the death benefit amount to the beneficiary on file and the alternate payee and will advise of the need for a QILDRO Calculation Court Order. The System will hold the death benefit until the QILDRO Calculation Court Order is received.

- If a death benefit application is pending when the System receives a QILDRO that purports to apply to the death benefit but the death benefit payment has not yet been vouchered, the System will hold the portion of the death benefit that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO is effective against that pending death benefit. It is the alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification;
- If a death benefit payment has already been vouchered when the System receives a QILDRO that purports to apply to the death benefit, the QILDRO shall not be effective against that death benefit;

B) "Vouchered", as used in subsection (h)(3)(A), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

4) Accelerated Retirement Benefit

A) For cases in which a valid QILDRO filed with the System grants prospective automatic annual increases to benefits of an alternate payee and the member subject to that QILDRO elects the accelerated retirement benefit under Section 14-147.6 of the Code, a supplemental order clarifying how the payment option is to be divided must be accepted before any of the retirement benefits payable to the member and alternative payee are vouchered. If no supplemental order was provided by or on behalf of the member

subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-147.6, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain the supplemental order.

B) If a member subject to a valid QILDRO elects the accelerated retirement benefit under Section 14-147.5 of the Illinois Pension Code, a supplemental order clarifying how the accelerated retirement benefit is to be divided must be accepted by the System before any benefits payable to the member or the alternate payee may be vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-147.5, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain a supplemental order.

C) "Vouchered", as used in this subsection (h)(4), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

i) Termination of QILDRO

The System will consider a QILDRO as having been terminated in any of the following situations:

- 1) Upon receipt of a certified copy of a court order terminating the QILDRO;
- 2) Upon payment of all amounts provided for in the QILDRO; or
- 3) When the person to whom the QILDRO applies ceases to be a member or annuitant of the System.

j) QILDROs Against Persons Who Became Members Prior to July 1, 1999

- 1) A QILDRO that applies to a person who became a member of the System prior to July 1, 1999, must be accompanied by the original Consent to Issuance of QILDRO signed by the member. If the original is unavailable, a certified copy of the consent form filed with the court that issued the QILDRO is acceptable in lieu of the original.
- 2) The Consent to Issuance of QILDRO must be in the form adopted by the System (including judicial district and county, case number and caption, member's name and SSN, alternate payee's name and SSN, member's

signature and date) as of the date the QILDRO is received. A consent form that is not in the form adopted by the System is invalid.

- 3) In accordance with Section 1-119(m)(1) of the Code, a consent form must be signed by the member to whom the QILDRO applies. A consent form signed by a judge in lieu of the member is invalid.

k) Alternate Payee's Address

- 1) An alternate payee is responsible to report to the System in writing and in the form and manner prescribed by the System each change in their name and mailing address.
- 2) When a member's retirement benefit, refund or death benefit subject to a QILDRO becomes payable, the System will send notice to the last address of the alternate payee reported to the System that the benefit, refund or death benefit is payable. Other than sending such notice, the System shall have no duty to take any other action to locate an alternate payee.
- 3) The 180-day period during which the System will hold the retirement benefit, refund, or death benefit as provided in Section 1-119(e)(2) of the Code begins on the date that the notice described in subsection (j)(2) of this Section is sent to the last address of the alternate payee reported to the System, or on the date that the retirement benefit, refund, or death benefit becomes payable, whichever is later.
- 4) If the System does not receive written confirmation of the alternate payee's current mailing address in the form and manner prescribed by the System within the 180-day period, then the System will pay the amounts held under Section 1-119(e)(2) of the Code to the regular payee.
- 5) If the System receives written confirmation of the alternate payee's current mailing address in the form and manner prescribed by the System after the 180-day period, then the System will begin issuing applicable recurring benefit payments to the alternate payee in accordance with the QILDRO and QILDRO Calculation Court Orders on file with the System, but the alternate payee will have no right to any amounts already paid to the member.

l) Electing Form of Payment

- 1) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a

prohibited election under Section 1-119(j)(1) of the Code.

2) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the Code.

3) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the Code.

m) Automatic Annual Increases

1) The alternate payee will or will not receive a proportionate share of any automatic annual increase in the member's retirement benefit under Section 14-114 or 14-115 of the Code, according to the designation in the QILDRO. If the QILDRO fails to designate whether the alternate payee is intended to receive a proportionate share of the automatic annual increase, then the System will presume that the alternate payee is not entitled to a proportionate share of the automatic annual increase in the member's share.

2) The initial increase in the amount due the alternate payee under the QILDRO is payable with the next succeeding increase due the member after the date the QILDRO first took effect.

3) The System will calculate the amount of any increase payable to the alternate payee under the QILDRO.

4) The amount of any increase payable to the alternate payee is the percentage of increase due the member under Sections 14-114 or 14-115 of the Code, multiplied by the alternate payee's monthly benefit as of the date of the increase.

n) Providing Benefit Information for Divorce Purposes

1) Within 45 days after receiving a subpoena or request from a member, the System will provide the information required in Section 1-119(h)(1) of the Code.

2) Information provided by the System for divorce purposes does not include the amount of a member's retirement benefit for which no information is yet on file with the System. The System will not provide a retirement benefit amount if the member is not vested. The System will not project

earnings or future service. The System will not assume future eligibility for special formula employees or elections by members.

3) Information provided by the System for divorce purposes does not reflect an actuarial opinion as to the present value of a member's retirement benefit, refund, death benefits or other interests.

4) Except as otherwise indicated by the System in a statement regarding a member's benefits, information provided by the System for divorce purposes reflects the member's total service career for which service credit in the System has accrued, and is not isolated as to the marital period only. The System will not provide benefit information for the marital period or specific years.

5) The System does not calculate the amount of a member's retirement benefit, refund or death benefit that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.

6) While the System makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing the System.

7) The System does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties including the member's attorney, except in response to the member's written authorization to release such information, or in response to a subpoena.

o) Member's Death before Entry of QILDRO Calculation Court Order

1) If the System has on file a valid QILDRO that allocates a System-provided benefit on a percentage basis and if the member named in the QILDRO dies before the associated QILDRO Calculation Court Order has been entered, then the System shall send a written notice to the alternate payee's last known address to advise the alternate payee that a valid QILDRO Calculation Court Order is needed and that it is the alternate payee's responsibility to have the required calculations performed and to file that order with the System.

2) If the alternate payee does not respond to the System's written notice by filing a valid QILDRO Calculation Court Order for the underlying QILDRO within 180 days after the System sends the written notice and, as a result, the alternate payee to whom benefits are to be directed under the

QILDRO Calculation Court Order has not been located, then the System shall pay the System-provided benefits that would otherwise be distributed under the QILDRO to the regular payee's beneficiaries or estate as is provided in Article 14 of the Code.

- 3) The System has no duty or obligation to assist in performing calculations required for the entry of a QILDRO Calculation Court Order or in completing the QILDRO Calculation Court Order form.

p) Nontaxable Funds

- 1) Unless otherwise specified in a supplemental order, the nontaxable portion of a payment divided under Section 1-119 of the Code shall be paid solely to the member, or, when applicable, the member's named beneficiaries or estate.
- 2) Notwithstanding subsection (p)(1), nontaxable funds may be payable to an alternate payee if those funds are needed to fulfill the amount due to that alternate payee as ordered by a court in accordance with Section 1-119 of the Code.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1540.380 Correction of Mistakes in Benefit Payments

- a) If SERS mistakenly sets any benefit at an incorrect amount, it will recalculate the benefit as soon as may be practicable after the mistake is discovered.
- b) If the recalculation results in a determination by SERS that it has overpaid a benefit and, if that benefit overpayment either was undiscovered for less than 3 years or resulted from incorrect information supplied by the affected member or beneficiary, then SERS will adjust the benefit to the correct level and notify the benefit recipient in writing. The written notice will indicate the correct amount of the benefit, the amount of the overpayment that must be recovered by the System, and the procedure for appealing the determination. If the affected member or beneficiary does not appeal the determination within 30 days after the postmark date of the written notice or, if, upon appeal, the Executive Committee affirms the System's determination, then SERS will make arrangements for collection of the amount of the overpayment. The overpayment can be repaid by:
 - 1) reductions in any subsequent benefit payment due to the recipient or their survivors and beneficiaries;

- 2) repayment of the overpayment by the recipient to SERS;
 - 3) other arrangement SERS makes with the recipient; or
 - 4) any other means legally available to the System.
- c) If the recalculation results in a determination by SERS that it has overpaid a benefit and, if that benefit overpayment was undiscovered for 3 or more years and did not result from incorrect information supplied by the affected member or beneficiary, then SERS will adjust the benefit to the correct level and notify the benefit recipient in writing. The written notice will indicate the correct amount of the benefit, describe the procedure for appealing the determination, and inform the benefit recipient that they are not required to repay SERS for the excess amounts received in error.
- d) If the recalculation results in a determination by SERS that it has underpaid a benefit, then SERS will notify the benefit recipient, adjust the benefit to the correct level, and pay a lump sum amount to the recipient in the amount necessary to make the recipient whole as to the amounts that should have been paid to the recipient by SERS under the Code. The amount payable under this subsection (d) on account of an underpayment of an accelerated pension benefit payment shall be distributed from the State Pension Obligation Acceleration Bond Fund.
- e) A benefit underpayment that arises from a back pay award may be acted upon under subsection (d) and is not required to be passed upon by the Board under Section 14-135.04 of the Code. However, if a member believes that the System has incorrectly adjusted the benefit or incorrectly calculated the amount of the underpayment, the member may appeal those calculations in the same manner as the appeal of an initial claim under Section 1540.270.
- f) Amounts collected under subsection (b) on account of the overpayment of accelerated pension benefit payments shall be remitted to the State Pension Obligation Acceleration Bond Fund.
- g) Nothing in this Section prevents SERS from referring any debt due SERS to the Attorney General, the Debt Collection Board, the Comptroller's Offset System, or private collection agencies at any time it deems appropriate.
- h) If an error was made to the benefit calculation of a member who elected the estimated payment option under Section 14-110(a-5) of the Code, then the 3-year timeline prescribed under Section 14-148.1 of the Code shall be set to the date the actual benefit payment amount is finalized.

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Definitions

As used in this Section:

"Accelerated Pension Benefit Payment" means any accelerated pension benefit payment provided under Section 14-147.5 or 14-147.6 of the Code.

"Benefit" means any retirement annuity, widow's annuity, survivor's annuity, occupational disability benefit, temporary disability benefit, nonoccupational disability benefit, death benefit, accelerated pension benefit payment, or other benefit payable under Article 14 of the Code or any portion of any proportional annuity or survivor's annuity that is payable by SERS under Article 20 of the Code.

"Code" means the Illinois Pension Code [40 ILCS 5].

"State Pension Obligation Acceleration Bond Fund" means the bond fund created by Section 7.7(d) of the General Obligation Bond Act [30 ILCS 330].

"SERS" means the State Employees' Retirement System of Illinois.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1540.395 Accelerated Pension Benefit Payment Program

a) Purpose. This Section establishes policies specific to SERS concerning the Accelerated Pension Benefit Payment Options authorized by Sections 14-147.5 and 14-147.6 of the Illinois Pension Code (Code) [40 ILCS 5].

b) Payment Option Limitations

1) A member needs to be an eligible person on or before June 1, 2026 in order to elect an accelerated pension benefit payment.

2) A member who elects the Level Income Option is ineligible to elect an accelerated pension benefit payment.

3) A member who elects the Social Security Offset Removal is ineligible to elect an accelerated pension benefit payment.

4) A member who elects a reversionary annuity is ineligible to elect an accelerated pension benefit payment.

- 5) A member subject to a mandatory distribution pursuant to section 401(a)(9) of the Internal Revenue Code (26 CFR 1) is ineligible to elect an accelerated pension benefit payment at least 30 days prior to the date the mandatory distribution must be paid. The election form of such a member must be received by SERS at least 30 days prior to the date the mandatory distribution must be paid.
 - 6) A member who is indebted to SERS because of an overpayment is ineligible to elect the accelerated pension benefit payment under Section 14-147.5 of the Code. That member may qualify for an accelerated pension benefit payment upon repaying the debt in full.
 - 7) An election for an accelerated pension benefit payment under Section 14-147.5 of the Code that is submitted by a member that received disability benefits and has a pending claim for either Social Security disability benefits or benefits payable under the Workers' Compensation Act [820 ILCS 305] or Workers' Occupational Diseases Act [820 ILCS 310], shall not be processed until a determination has been made on that claim.
 - 8) A member who cashed or deposited the payment of a proportional annuity from another participating system prior to December 1, 2018, when creditable service or earnings credit established under Article 14 of the Code was used to calculate a proportional annuity or to qualify the member for a proportional annuity, is ineligible to elect an accelerated pension benefit payment.
 - 9) A member who cashed or deposited the payment of a proportional annuity from another participating system prior to December 1, 2018, when creditable service or earnings credit established under another participating system was used to calculate the proportional annuity payable by SERS established under Article 14 of the Code or to qualify the member for the proportional annuity payable by SERS established under Article 14 of the Code is ineligible to elect an accelerated pension benefit payment.
- c) The present value of pension benefits calculation, as determined by Section 14-147.5(b) of the Code, shall not include any earnings credits under another participating system.
 - d) For a member who elects the accelerated pension benefit payment prescribed under Section 14-147.5 of the Code, the effective date of that accelerated pension benefit payment shall not be before April 1, 2019. Furthermore, the effective date

of the payment shall not be before the first of the month immediately following the date in which a valid application is received by SERS.

- e) The effective date for accelerated pension benefit payment prescribed under Section 14-147.6 of the Code:
 - 1) shall not be before December 1, 2018; and
 - 2) shall not be before the effective date of the member's retirement annuity.
- f) The accelerated pension benefit payment shall not be transferred to the member's eligible account prior to the effective date of the member's retirement annuity.
- g) A valid application for an accelerated pension benefit must be received by SERS before June 1, 2026 in order to qualify a member for an accelerated pension benefit.
- h) The election to receive an accelerated pension benefit payment under Section 14-147.6 of the Code becomes irrevocable on either the date the member cashes or deposits the first retirement annuity payment, or the date on which the accelerated pension benefit payment is vouchered, whichever occurs earlier.
- i) The election to receive an accelerated pension benefit payment under Section 14-147.5 of the Code becomes irrevocable on the date the accelerated pension benefit payment is vouchered.
- j) Accelerated pension benefit payments shall be paid solely from the amounts transferred to SERS from the State Pension Obligation Acceleration Bond Fund. Under no circumstance will other SERS assets be used to pay accelerated pension benefit payments. All elections for an accelerated pension benefit payment that will not be paid from amounts transferred to SERS from the State Pension Obligation Acceleration Bond Fund shall be null and void.
- k) For cases in which a member is charged with a felony related to, arising out of, or in connection with his or her service as an employee and elects an accelerated pension benefit payment, the adjudication process related to the charges must be completed before the accelerated pension benefit payment is vouchered. If the member is convicted and sentenced of a felony related to, arising out of, or in connection with his or her service as an employee, the payment shall not be vouchered.

- l) A member who elects the accelerated pension benefit payment under Section 14-147.5 of the Code is ineligible to receive a refund under Section 14-130(c) of the Code.
- m) A member with post-tax contributions on file with SERS, and who elects the accelerated pension benefit payment under Section 14-147.5 of the Code, may not elect to transfer the payment into the pre-tax plan offered under the State Employees Deferred Compensation Plan.
- n) On or after the date that a member's accelerated pension benefit payment is vouchered, that member is ineligible to establish creditable service associated with employment before the date that the accelerated pension benefit payment is vouchered.
- o) If a member who elected the Early Retirement Incentive under Section 14-108.3 of the Code elects the accelerated pension benefit payment under Section 14-147.5 of the Code, then the calculation of that payment shall exclude the creditable service and age enhancement components of the Early Retirement Incentive program unless the member has paid the necessary costs under Section 14-108.3(c) prior to the election of the accelerated pension benefit payment.
- p) If a member has irrevocably elected to receive an Accelerated Pension Benefit Payment and if the member's spouse dies after the date of that election but before the System has paid the Accelerated Pension Benefit Payment, then the amount to be paid as an Accelerated Pension Benefit Payment shall not be recalculated, reduced, or otherwise adjusted on account of the death of the member's spouse.
- q) An election of the accelerated pension benefit payment under Section 14-147.6 of the Code shall be invalidated when a member fails to document their eligible account prior to one month of the start date of the automatic annual increases that would have otherwise been payable.

r) Definitions

"Accelerated Pension Benefit Payment" means an accelerated pension benefit payment under Sections 14-147.5 and 14-147.6 of the Code.

"Accrued Sufficient Service Credit to be Eligible to Receive a Retirement Annuity Under this Article" means, for the purposes of Section 14-147.5(a)(2) of the Code, that a member must have established sufficient creditable service to qualify for a retirement annuity under Article 14 of the Code. Service credit on file with another participating system at the time of the member's election for an accelerated pension

benefit payment under Section 14-147.5 shall be excluded for those purposes.

"Code" means the Illinois Pension Code [40 ILCS 5].

"Creditable Service" means service defined as "creditable service" under Section 14-103.15 of the Code.

"Eligible Account" means a "tax qualified retirement plan or account" required by Sections 14-147.5(e) and 14-147.6(d) of the Code.

"Level Income Option" means a benefit payment option prescribed by Section 14-112 of the Code.

"Participating System" means a retirement system defined as a "participating system" by Section 20-108 of the Code.

"Proportional Annuity" means a retirement annuity paid in accordance with Section 20-121 of the Code.

"Reversionary Annuity" means a reversionary annuity authorized by Section 14-113 of the Code.

"Social Security Offset Removal" means the 3.825% reduction to a member's retirement annuity established by Sections 14-119(d) and 14-121(g) of the Code.

"State Employees Deferred Compensation Plan" means the plan described by Section 24-104 of the Code.

"State Pension Obligation Acceleration Bond Fund" means the bond fund created by Section 7.7(d) of the General Obligation Bond Act [30 ILCS 330].

"Vouchered" means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 1540.401 Implementation of Section 14-110(a-5) of the Code

- a) The term, "files for the retirement benefit with the System" as used in Section 14-110(a-5) of the Code means all of the following events necessary to validate the member's eligibility for the retirement annuity and to process the estimated payment provided in Section 14-110(a-5) of the Code have occurred, which includes:
- 1) The member's completed retirement application has been received;
 - 2) A copy of the member's birth certificate has been received;
 - 3) The member's completed tax withholding form has been received;
 - 4) The member's completed State Group Insurance Plan election form has been received;
 - 5) The member's completed direct deposit agreement, or their written authorization to issue payments by paper check form has been received;
 - 6) If the member is married, a copy of the member's marriage certificate and a copy of their spouse's birth certificate form have been received;
 - 7) If the member is widowed and single, a copy of the member's deceased spouse's death certificate or obituary form has been received;
 - 8) If the member is divorced and single, a copy of the divorce decree has been received;
 - 9) If the member or dependent is eligible for Medicare, a copy of the Medicare card has been received;
 - 10) The member's final payment for compensation for personal services has been recorded with the System;
 - 11) No contribution arrearages or unpaid service credit purchase balances associated with the member's account exist;
 - 12) The member's irrevocable election to receive an estimated payment has been received;
 - 13) The member's completed election as required under Section 14-147.6(b) of the Code form has been received; and

14) A completed Employer Statement in which the member's employer certified the member's last day of service and their last rate of compensation form has been received.

b) The term, "best estimate" as used in Section 14-110(a-5) of the Code utilizes the monthly rate of compensation received by the person on the last day of their eligible creditable service as the final average compensation component of the retirement annuity calculation.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 1540.405 Tier 2 Member Final Average Compensation

a) For purposes of calculating the final average compensation of a retirement annuity of a Tier 2 member, the average compensation for the last 12 months ~~of the 48 month period~~ shall not exceed the ~~final~~ average compensation of the final 48 month period by more than 25%. (See Section 14-103.12(a) of the Illinois Pension Code (Code) [40 ILCS 5].)

b) For purposes of this Section, "Tier 2 Member" means a member of the System who is subject to the provisions of Section 1-160 of the Code.

(Source: Amended at 50 Ill. Reg. _____, effective _____)