

BOARD RULES

---

**1-1 Organization of the Board, Location and Venue<sup>1</sup>**

- (1) MPERS' principal office is located at 1913 William Street, Jefferson City, (Cole County) Missouri 65109. All legal process may be served on the Executive Director (or Assistant Executive Director) at this office. All suits directly or indirectly against MPERS shall be brought in Cole County, Missouri.<sup>2</sup>
- (2) The Executive Director shall keep all records of MPERS at its principal office. Record and information requests may be presented to the Executive Director at MPERS' principal office. All public notices issued by MPERS shall be posted at MPERS' principal office and on MPERS' website at [www.mpers.org](http://www.mpers.org).

**1-2 Appeals to the Board<sup>3</sup>**

- (1) Any benefit recipient may appeal decisions by the Executive Director of MPERS, or his/her designee, concerning eligibility for and/or the amount of benefits, service, contributions, refunds, and membership by filing a written request for a review by the MPERS' Board of Trustees within 60 days of the Executive Director's written decision. The person requesting review is hereafter referred to as the appellant.
- (2) Requests for Review.
  - (a) The request for review must be in writing and addressed to the Executive Director. The request must state what decision the Board of Trustees is being asked to review and what action the Board of Trustees is being asked to take. The appellant should submit any documentary exhibits in support of his or her position with the request for review.
  - (b) The appellant should indicate in his or her request for review whether the appellant requests a hearing or whether the appellant requests that the Board of Trustees resolve the appeal on the basis of the documented request.
- (3) MPERS Executive Director may be represented by MPERS General Counsel or counsel retained by MPERS for this purpose. The Executive Director will prepare a response to the request for review, which will include documentation necessary for the Board of Trustees to review the decision, and at a minimum will include copies of correspondence, applicable statutes and regulations, and a summary of the issues and decision of the Executive Director of MPERS or his/her designee. The response will be provided to the appellant at the same time it is provided to the Board of Trustees.
- (4) The appellant may submit a reply to the Executive Director's response within 30 days of the date of the Executive Director's response.

---

<sup>1</sup> Revised June 20, 2013.

<sup>2</sup> See Sections 104.190 & 104.240, RSMo.

<sup>3</sup> Revised June 21, 2012. Revised September 25, 2014; removed old *Section 1-2 Rulemaking* as redundant per statutes. Revised September 24, 2015.

- (5) Reviews.
  - (a) Reviews will be held on an informal basis. No formal rules of evidence will be applied.
  - (b) The Board may subpoena witnesses and the production of records for deposition or hearing under the Chair's signature. Enforcement of a subpoena, if necessary, shall be at the relation of and expense of the party requesting the subpoena unless the Chair directs otherwise.
  - (c) The Board Chair will designate a hearing officer to hear all matters appealed to the Board, whether the matter is submitted based on written documentation of whether a hearing is requested. Where a hearing is requested the hearing officer shall be responsible for timely scheduling and conducting the hearing. The hearing officer will prepare a draft decision for consideration by the Board of Trustees following the submission of the matter.
  - (d) Should a Trustee be conflicted in a matter under review, the Trustee should declare a conflict and refrain from participation in the review.
  - (e) The appellant may have another individual make the presentation, or assist in making the presentation, of information in the appeal. The appellant and Executive Director may also present witnesses. In this regard, the appellant and Executive Director shall exchange witness lists prior to the hearing to allow an opportunity for depositions.
  - (f) Hearings will be closed or under suitable protective order issued by the hearing officer to preserve confidentiality of member information. Opening any part of the review shall be at the discretion of the hearing officer, provided appropriate conditions are placed to protect the privacy of member information.
  - (g) The hearing officer may request the Executive Director and appellant to file recommended findings and conclusions of law for the Board's consideration.
- (6) The Board of Trustees will review the entire record. The Board of Trustees will vote to confirm, reverse, or amend the administrative decision. In doing so, the Board of Trustees may adopt or reject, in whole or in part, the draft decision of the hearing officer and adopt such further statements or findings as appropriate to show the Board's decision. Deliberations and voting will occur in a closed session of the Board. The appellant and Executive Director shall be promptly notified of the decision and vote and the decision and vote shall be posted by the Board at its next public meeting after it has been delivered to the appellant. If written findings and conclusions of law are adopted they may be redacted to preserve confidential member information.

### **1-3 Confidentiality of Records**

- (1) Upon receiving a written request that states the name, address, and telephone number of the person making the request, MPERS will provide the following information with regard to retirement or disability benefits administered and distributed by MPERS: name, department, benefit amount, and length of service of any benefit recipient who is eligible to receive retirement or disability benefits or benefit recipient receiving survivor or period certain annuity benefits.
- (2) All other individually identifiable records of benefit recipients shall be kept confidential unless:
  - (a) The benefit recipient consents in writing to the release of the information;
  - (b) The information is requested by the benefit recipient's legal representative;

- (c) The information is requested pursuant to a subpoena or other legal process as provided by law including, but not limited to Sections 104.312 or 104.1051; or,
  - (d) The information is requested in writing by a state agency in connection with personnel management or the administration of state benefit programs and the director or superintendent of the state agency agrees in writing to use the information only for the requested purpose and to otherwise keep the information confidential.
- (3) MPERS will send a copy of the written request and MPERS' response to the benefit recipient after providing the information, unless the request seeks general information about a large group of benefit recipients.

#### 1-4 Charges for Documents

The Board of Trustees authorizes the Executive Director to establish and impose a reasonable charge to cover the cost of furnishing copies of reports, records, and documents upon written request. Fees shall comply with Section 610.026, RSMo.

#### 1-5 Board Election Procedures<sup>4</sup>

- (1) Four Elected Trustees. Under the provisions of Section 104.160, RSMo., four (4) members of the eleven-member MPERS' Board of Trustees are elected to four-year terms, in an election cycle that coincides with terms beginning on the July 1 following the election.
- (2) Election Administration. The Executive Director, or staff designee, shall administer the election process and oversee the preparation of all election materials and may direct the preparation of informational brochures, newsletters or news releases to provide information to members concerning the election process. No MPERS staff time or resources may be used to influence the outcome of an election.
- (3) If any nomination or filing date specified in this rule falls on a Saturday, Sunday or state or federal holiday, the nomination or filing date shall be the next business day.
- (4) Voting and Nominating Groups. One elected Trustee shall be an active employee of the Missouri Department of Transportation (MoDOT) and be nominated and elected by the active employees of MoDOT. One elected Trustee shall be an active employee (civilian or uniformed) of the Missouri State Highway Patrol (MSHP) and be nominated and elected by the active employees (civilian or uniformed) of the MSHP. One elected Trustee shall be a retired member of MoDOT and be nominated and elected by the retired employees of MoDOT. One elected Trustee shall be a retired employee (civilian or uniformed) of the MSHP and be nominated and elected by retired MSHP employees. Thus, there are four distinct voting and nominating groups. Eligibility for a voting or nominating group shall be based upon the employee or member's status as of March 1<sup>st</sup> prior to the election.<sup>5</sup>
- (5) Candidate Qualification. To be qualified and eligible for election to the office of Trustee, the candidate must be a member of the respective voting and nominating group, submit a *Trustee Candidate Declaration Form*, and properly completed *Trustee Nomination Form* to MPERS. If a candidate subsequently becomes ineligible, the candidate's name may be removed from the ballot with the approval of the Executive Director. See Rule 1-5(4). If the candidate becomes ineligible

---

<sup>4</sup> Revised June 20, 2013 and November 17, 2016.

<sup>5</sup> Revised February 25, 2011.

after ballots are made available and the candidate is elected, the candidate may not be seated and candidate with the next highest vote count will be considered to be the duly elected board member.

- (6) Election Date – Last Thursday in May. Regular elections will be held on the last Thursday of May of even numbered years in which there is no election for the Office of the United States President.
- (7) MPERS will prepare and make declaration and nomination forms as well as other relevant election materials available to interested candidates on or before March 1<sup>st</sup> prior to the election. MPERS will post notice of the availability of the declaration and nomination forms on its website and distribute notice via the most economical means per voting and nominated group. The *Trustee Nomination Form* must be signed by at least twenty-five (25) members of the voting and nominating group. All nominations must be received at MPERS' office no later than April 1<sup>st</sup> prior to the election. If, at the close of the nomination period, there is only one valid nomination for a voting and nominating group, the Executive Director shall certify the nominating forms for that candidate and provide the certified nominating forms to the Board to declare the candidate to be elected, without balloting, on the basis of the sole nomination. If, at the close of the nomination period, a valid nomination is not received or the candidate becomes ineligible (see Paragraph 5) for a voting and nominating group, the Executive Director may reopen the nomination process and establish a nomination time frame consistent with a fair election process.<sup>6</sup>
- (8) Confirmation and Notification of Nominees. MPERS will confirm each nominee by verifying the eligibility of the nominee and the signers of the petition. The Executive Director will notify confirmed nominees that their names will appear on the appropriate ballot no later than April 5<sup>th</sup> prior to the election.<sup>7</sup>
- (9) Any candidate for election to the Board of Trustees will be permitted to have his or her name appear on the ballot as he or she is customarily known.
- (10) Candidate Statements. Each candidate for election to the Board of Trustees may prepare a brief statement for the purpose of identification and to show their employment or retirement status with MoDOT or MSHP as applicable. The statement should show the candidate name, and may state any nickname by which the candidate is known, length of service, position, location or last location of employment, and date of retirement, if applicable. The candidate may include additional biographical information, qualifications, or reasons for wanting to serve, etc., in the statement. The statement shall not exceed 300 words. If the statement exceeds 300 words, the Executive Director reserves the right to edit the statement. The statement shall be provided to the Executive Director no later than April 15<sup>th</sup> prior to the election. The Executive Director, or staff designee, shall format and produce the candidate statements in documents for each respective voting group, showing the candidates in each group in alphabetical order by last name, and distribute the statements with the ballots.
- (11) Ballots. Electronic ballots for each voting group will show the candidates in alphabetical order. The day the election is opened appropriate ballot and bios will be available to members of each voting group via a link to MPERS' secure site for electronic voting. Members of each voting group will be notified that voting is open.
- (12) Election ballots and bios will be available to members on MPERS' secure site for electronic voting. On MPERS' website ([www.mpers.org](http://www.mpers.org)) members shall choose the box entitled "myMPERS Login" and login to the secure website. The election title, summary and voting period will be displayed along with the list of candidates and their bios. Members shall select a candidate from the list

---

<sup>6</sup> Revised February 25, 2011 and June 21, 2012.

<sup>7</sup> Revised June 21, 2012.

provided and click "submit". Ballots may only be completed during the open election period and only one ballot per member may be cast. The ballot, once cast, cannot be modified.<sup>8</sup>

- (13) Election Process. The Executive Director shall ensure a fair and impartial election process by ensuring appropriate controls are in place at the third-party information technology provider. Such controls may include but not be necessarily limited to the following: a) only one ballot is cast per member, b) active members only vote for active board candidates and only retired members vote for retired board candidates, c) the process is finalized at the close of the election period and no further edits to the database of election ballots are possible after finalization, d) once the election process is open then no edits to names or candidate bios or positions on the ballot are possible, and e) any changes requested by or provided to the third party information technology provider must be approved in writing by the Executive Director and General Counsel.
- (14) Ballot Count. Following the close of the election period, the votes are automatically tallied via the secure website. A Summary Voting Report showing the voting group, candidate names and number of votes received shall be run following the close of the election period. The Executive Director shall make a preliminary announcement of the election results.
- (15) Election Certification. At the first meeting of the Board of Trustees following the electronic counting and tallying of ballots, the Executive Director after consultation with the System's third party information technology provider shall certify the election tally counts to the Board of Trustees. The Board shall declare the successful candidates based upon the electronic tally of votes cast. If two or more candidates for one voting and nominating group tie with the greatest number of votes, those candidates shall appear before the Executive Director and draw lots to determine the election outcome, in which case the Executive Director shall certify the election tally counts and the result of the draw to the Board of Trustees. The method of the draw (such as drawing of straws, coin flip, etc.) shall be determined by the Executive Director. The Board shall declare the successful candidate based upon the tie vote and the result of the draw.<sup>9</sup>
- (16) Vacancies in the Office of Elected Trustee Where the Remaining Term<sup>10</sup> is Six Months or Longer. In the event a vacancy occurs before the expiration of a regular term of an elected trustee, the Board of Trustees shall call a special election at its next regular or special meeting to fill the vacancy and set an election date if at the time of the meeting the remainder of the term is six months or more. The Executive Director shall set a special election calendar consistent with the procedures of this rule, but may condense the time frame consistent with a fair election process. An elected Trustee who no longer holds the status of the nominating and voting group from which he or she was elected, shall be considered to have resigned thus resulting in a vacancy.
- (17) Vacancies in the Office of Elected Trustee Where the Remaining Term<sup>11</sup> is Less Than Six Months. In the event a vacancy occurs before the expiration of the regular term of an elected trustee and the remainder of the term is less than six months (as of the next regular or special meeting) the vacancy may, at the discretion of the board, remain unfilled until the next election.

## 1-6 Procurement by Contract<sup>12</sup>

Under the authority granted by Sections 104.110 and 104.1075, RSMo., the Board has elected to procure long-term disability coverage, including work-related disability, by contract through a group

---

<sup>8</sup> Revised June 20, 2013.

<sup>9</sup> Revised February 25, 2011.

<sup>10</sup> Terms end on June 30.

<sup>11</sup> Terms end on June 30.

<sup>12</sup> Revised September 25, 2014.

policy issued by an insurance company licensed in the State of Missouri.

## 1-7 Excess Benefit Arrangement<sup>13</sup>

(1) The Excess Benefit Arrangement of the MoDOT and Patrol Employees' Retirement System ("MPERS") is adopted pursuant to the authority granted to MPERS by Sections 104.010.2 and 104.1003, RSMo. and established and maintained by MPERS solely for the purpose of providing a benefit that would otherwise be available under Chapter 104 RSMo., as if there were no limitations on benefits imposed by Section 415 of the Internal Revenue Code. MPERS hereby adopts the Excess Benefit Arrangement pursuant to the terms and provisions set forth below.

### (2) Definitions and Construction

- (a) "Excess Benefit Arrangement" of MPERS shall mean the separate, unfunded qualified governmental excess benefit arrangement within the meaning of Section 415(m) of the Internal Revenue Code and established pursuant to Section 104.010.2 RSMo., and this rule, that is a separate portion of the retirement system.
- (b) Excess benefit participant shall mean any retiree or beneficiary whose benefits would otherwise be payable pursuant to Chapter 104, RSMo. as if there were no limitations under Section 104.010.2, RSMo. nor under Section 415 of the Internal Revenue Code.
- (c) Eligibility as a Section 415(m) benefit plan participant shall be determined by the retirement system at retirement and annually thereafter.
- (d) "Excess Retirement Benefit" shall mean the monthly benefit an Excess Benefit Participant *would have been entitled to receive* from the retirement system under Chapter 104 RSMo., as if there were no restrictions under Section 104.010.2 RSMo., and designed to conform to Section 415 of the Internal Revenue Code.
- (e) "Maximum Benefit" shall mean the benefit a retiree or beneficiary *is entitled to receive* from MPERS in any month after giving effect to Chapter 104 RSMo., designed to conform to the annual benefit limit set for in Section 415 of the Internal Revenue Code as amended.
- (f) "Unrestricted Benefit" shall mean the monthly benefit a retiree or beneficiary *would have been entitled to receive* from MPERS under Chapter 104 RSMo., as if there were no restrictions under Section 104.010.2 RSMo., and designed to conform to Section 415 of the Internal Revenue Code.

### (3) Excess Retirement Benefit Eligibility and Calculation

An Excess Benefit Participant receiving benefits from MPERS pursuant to Chapter 104 RSMo., is entitled to a monthly benefit under the Excess Benefit Arrangement in an amount equal to the Excess Benefit Participant's unrestricted benefit less the maximum benefit. In no event shall a retiree or beneficiary receive a total monthly benefit from MPERS under the Excess Benefit Arrangement in excess of the monthly benefit he or she would have been entitled to receive from MPERS under Chapter 104 RSMo., if there were no the restrictions under Section 104.010.2 RSMo., and designed to conform to Section 415 of the Internal Revenue Code.

### (4) Administration of the Arrangement

---

<sup>13</sup> Revised September 25, 2014.

- (a) **General Powers of Administration:** All provisions set forth in the Plan documents with respect to the administrative powers and duties of MPERS, expenses of administration, and procedures for managing benefits shall also be applicable with respect to the Excess Benefit Arrangement. MPERS shall be entitled to rely conclusively upon all tables, valuations, certificates, opinions, and reports furnished by any actuary, accountant, controller, counsel, or other person employed or engaged by MPERS with respect to the Arrangement.
- (b) **Procedure:** A separate trust account shall be created to hold any funds used in paying benefits under the Excess Benefit Arrangement. A portion of each payment of employer contributions that is made to MPERS under Sections 104.070 and 104.1066.4 RSMo., shall be paid to the Excess Benefit Arrangement in an amount necessary to satisfy the monthly obligation to pay Excess Benefit Participants the amount calculated pursuant to the calculation above, as those amounts become due, and may include amounts needed to pay reasonable expenses necessary to administer the Excess Benefit Arrangement. Employer contributions made to provide Excess Retirement Benefits pursuant to this rule shall not be commingled with any other assets of MPERS.

#### General Provisions

- (a) **Funding:** The Excess Benefit Arrangement at all times shall be entirely unfunded, except as described above, and no provision shall at any time be made with respect to segregating any assets of MPERS or of any Employer for payment of any benefits hereunder.
- (b) **Applicable Law:** The Arrangement shall be construed and administered under the law of the State of Missouri and Section 415(m) of the Internal Revenue Code.

#### 1-8 Temporary Vacancy of Board Chair and Vice Chair<sup>14</sup>

In the event both the Board Chair and Vice Chair are unavailable to preside at a board meeting, the ranking board member shall chair the meeting. The ranking board member is defined as that member who has been on the Board the longest (total over any periods of service on the MPERS board).

#### 1-9 Benefits Are Nonforfeitable If Plan Terminates<sup>15</sup>

Upon termination of the plan, a member's interest as of such date shall be nonforfeitable to the extent funded.

#### 1-10 Compliance with Internal Revenue Code and Regulations Incorporated by Reference<sup>16</sup>

Section 104.605, RSMo., allows the system to make certain rollover distributions in compliance with the Internal Revenue Code and regulations.

A distributee may elect, at the time and in the manner prescribed by the system, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee (a "direct rollover"). A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

---

<sup>14</sup> Approved June 18, 2015.

<sup>15</sup> Approved June 22, 2017. Added in response to IRS determination letter inquiry.

<sup>16</sup> Approved June 22, 2017. Added in response to IRS determination letter inquiry.

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distribution. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or effective January 1, 2007, such amount may be transferred in a direct trustee-to-trustee transfer to a qualified trust described in Section 401(a) of the Code or an annuity contract described in Section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately account for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a Roth IRA described in Section 408A(b) of the Code (effective for distributions after December 31, 2007), an annuity plan described in Section 403(a) of the Code, or a qualified plan described in 401(a) of the Code, that accepts the distributee's eligible rollover distribution. An eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

Effective for distributions after December 31, 2009, a non-spouse beneficiary may elect to receive his or her distribution from the Plan in the form of a direct trustee-to-trustee transfer to an eligible retirement plan in accordance with Section 402(c)(11) of the Code.

#### **1-11 Internal Revenue Code Compliance with USERRA and the HEART Act<sup>17</sup>**

Sections 104.030 and 104.1021, RSMo., require that employees shall receive creditable service for all military time as required by state and federal law. Specifically, any member who completes military service or training on or after December 3, 1974, shall receive creditable service and salary credit mandated by federal law under the Vietnam Era Veteran's Readjustment Act of 1974 and the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor thereto, or as otherwise provided under federal or state law.

Effective December 12, 1994, notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. In compliance with the Heroes Earnings Assistance and Relief Tax Act of 2008, if a member dies while performing qualified military service on or after January 1, 2007, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the member had resumed employment and then experienced a termination of employment on account of death. For years beginning after December 31, 2008: (a) an individual performing service in the uniformed services (as described in Section 3401(h)(2)(A) of the Code) for a period of more than 30 days receiving a differential wage payment from an employer shall be treated as an employee of such employer; and (b) the differential wage payment (as described in Section 3401(h)(2) of the Code) shall be treated as compensation.

---

<sup>17</sup> Approved June 22, 2017. Added in response to IRS determination letter inquiry.



## 1-12 Required Minimum Distributions<sup>18</sup>

Effective July 1, 2011, in accordance with Internal Revenue Code Section 401(a)(9) and related Treasury Regulations regarding required minimum distributions, distributions will be made no later than the April after a vested deferred member attains age 72 or when an active member retires, whichever is later.

## 1-13 Actuarial Equivalent Reduction Factors for Various Survivor Options<sup>19</sup>

Effective July 1, 2011, reduction factors used to determine the amount of any optional benefit (specifically survivor benefits) that are the actuarial equivalent of the normal retirement benefit payable under the plan, can be found in MPERS' handbooks for the corresponding plan online at [www.mpers.org](http://www.mpers.org) or a printed copy will be provided upon request. These assumptions may be amended from time to time as required by law or upon adoption by the Board of Trustees.

## 1-14 Compliance with United States v. Windsor and Application of Same-Sex Marriage Laws<sup>20</sup>

Effective June 26, 2013, as a result of the United States Supreme Court decision United States v. Windsor, MPERS recognizes same-sex marriages for the following purposes: eligible rollover distributions applicable to the plan, required minimum distributions provided under IRC 401(a)(9), and for federal tax withholding purposes. For these purposes, Section 104.012, RSMo., does not apply and the definition of spouse shall now include marriage between a man and woman as well as legally married individuals of the same gender.

Effective December 1, 2014, as a result of a policy change at the Board's direction and in response to the changing legal climate in regards to the treatment of same-sex couples, MPERS will treat as unenforceable Section 104.012, RSMo. For purposes of administering all of the laws and rules of the Plan, the definition of "spouse" shall now include marriage between a man and woman as well as legally married individuals of the same gender. The United States Supreme Court decision of Obergefell v. Hodges (June 2015) reaffirmed this policy change.

---

<sup>18</sup> Approved June 22, 2017. Added in response to IRS determination letter inquiry. Revised June 18, 2020, subject to the SECURE Act of 2019. Note: the effective date of July 1, 2011 is related to the IRS determination letter inquiry and not related to the change in the age requirements.

<sup>19</sup> Approved June 22, 2017. Added in response to IRS determination letter inquiry.

<sup>20</sup> Approved June 22, 2017. Added in response to IRS determination letter inquiry.