

## STATEMENT OF BASIS AND PURPOSE

### Amendments and Additions to Rules of the Public Employees' Retirement Association

1. Rule 1.20F(7) is being added to clarify the requirements that must be met in order for a one-time payment by an employer to be considered PERA-includable salary.
2. Rule 2.15 is being amended to reflect affiliations, disaffiliations, and name changes of PERA employers.
3. Rule 2.20F is being amended to allow consolidation of administrative review matters at the executive director initial decision level of appeal. Previously, consolidation was only permitted at the administrative review hearing level of appeal.
4. Rule 2.20G(3), regarding administrative review hearings, is being amended to allow the PERA Board to remand the matter to the administrative review panel for further factual findings. This revision ensures that the PERA Board has all the fact-finding it needs in order to render a decision regarding the legal findings of the administrative review panel.
5. Rule 2.90 may be amended if the Board approves any changes to the actuarial assumptions set forth in the Rule. The Board is required pursuant to C.R.S. §§ 24-51-101(2) and 24-51-204(5) to specify the factors to be used in actuarial determinations, and will be considering the actuarial investment assumption rate at the November 15, 2013, Board meeting.
6. Rule 4.60C is being amended to state that interest on the working retiree contribution shall be collected via offset of the retiree's retirement benefit. The rule currently states when interest shall be due, but does not state the method for collecting the interest.
7. Rule 8.30 is being amended to allow changes to a cobeneficiary or benefit option upon entrance into a civil union. The rule currently states the requirements for changing a cobeneficiary or benefit option upon marriage. This amendment is necessary due to the passage of Senate Bill 13-011, effective May 1, 2013, under which individuals may enter into a civil union and are permitted by law to change their cobeneficiary or benefit option.
8. Rule 11.12C(3) is being amended to state that an "affiliated party" for purposes of the working after retirement rules includes a party to a civil union. This amendment is necessary due to the passage of Senate Bill 13-011, effective May 1, 2013, under which individuals may enter into a civil union and are treated the same as individuals who have married.
9. Rule 11.12D(3) is being amended to clarify the method for collecting the employer contribution, which is payable by retirees who fail to report compensation as required by Rule 11.12D(2). Previously the Rule did not state the method by which the contribution would be collected from the retiree. The amendment states that the contribution shall be paid via offset of the retiree's retirement benefit.
10. Rule 12.10A(3) is being amended to state that spouses may be enrolled in PERACare within 30 days of the date of a civil union. This amendment is necessary due to the passage of Senate Bill 13-011, effective May 1, 2013, under which individuals may enter into a civil union and are granted the same rights as spouses to enroll in PERACare.

# Colorado PERA Rules

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## **Rule 1: Definitions**

Rule 1 defines certain terms used in the Rules, and further defines certain terms defined in Article 51, Title 24, C.R.S. For the purposes of Rule 1, except Rule 1.20G, which shall not apply to DPS members who are eligible to retire as of January 1, 2011, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

Unless otherwise stated, the terms and phrases contained in these rules shall have the same meaning as specified in Article 51 of Title 24, C.R.S.

### **1.20 Terms Used in Rules**

Terms used in the Rules shall have the meaning specified:

- A. Foreign employer means a person or an entity that is formed under the laws of a jurisdiction outside the United States or its Territories.
- B. Pay pattern means the frequency of periodic salary payments.
  - (1) Academic pay pattern means salary is paid over a period of at least 8 months but less than 12 months.
  - (2) Seasonal pay pattern means salary is paid over a period of 1 to 11 months as determined by work available.
  - (3) Traditional pay pattern means salary is paid over a period of 12 months.
- C. Noncovered employment means public or private employment with an employer in the United States, its territories, or any foreign country for which no PERA service credit was earned. Qualified service and non-qualified service shall be determined in accordance with the Internal Revenue Code, and the Internal Revenue Service Rules and Regulations.
- D. Retroactive salary means salary for previous periods of employment for which payment was delayed or the rate of pay subsequently changed. Retroactive salary payments shall be considered earned in the months for which the salary should have been paid, had no delay or subsequent rate change occurred. For retroactive salary payments that are made pursuant to court orders or arbitration awards or litigation and grievance settlements, the PERA-includable salary cannot be greater than the rate of pay the member would have received had he or she been employed with the employer and/or paid at the time the services were performed. In the event that the retroactive salary payment is less than the rate of pay the member would have received had he or she been employed with the employer and/or paid at the time the services were performed, the Association shall provide partial service credit to the member by prorating the service credit in the same proportion to the salary that was actually paid versus the salary that would have been paid.
- E. Qualified Children
  - (1) Natural children means those biological children of a member who are conceived prior to the date of death of the member and are born within the normal gestation period after the date of the death of the member.
  - (2) Adopted children means those for whom a petition for adoption was filed in court prior to the date of the death of the member and such petition is diligently pursued to the entry of the final decree of adoption.

- (3) Qualified children shall not include natural or adopted children of a member or inactive member whose parental relationship to the child has been terminated or determined by a court not to exist prior to the death of the member or inactive member.
- (4) Qualified children shall not include natural children of a member or inactive member whose parental relationship to the child is determined by a court after the death of the member or inactive member.
- (5) Qualified children shall include natural or adopted children of a member or inactive member who are legally adopted by another parent after the death of the member or inactive member. This subsection (5) shall not apply to qualified children eligible for benefits pursuant to the provisions of Section 24-51-1737, C.R.S.
- (6) For purposes of the DPS benefit structure, qualified children means those children who are eligible to receive survivor benefits pursuant to Section 24-51-1737, C.R.S.

## F. Salary

### (1) Accrued Leave Payments

- (a) Payments by an employer in satisfaction of amounts owed for accrued but unused leave, other than sick leave shall be treated as PERA salary pursuant to 24-51-101(42), C.R.S., if the following criteria are met:
  - The payment by the employer of the accrued leave is made in a lump sum at the termination of the member's employment or in periodic payments after severing employment not at the election of the member. Periodic payments must be made over consecutive pay periods and for a period not to exceed the amount of service credit awarded in association with the payment. In the event that periodic payments are made, a single benefit adjustment will be made at the end of the payment period;
  - The accrued leave payments are paid at a rate not to exceed the member's most recent rate of pay; and
  - The payment is for accrued leave earned by the member pursuant to an established employer policy or employment contract and not as a result of a retroactive grant or an award by the employer.
- (b) If each of the above criteria are met, consistent with longstanding PERA practice, the accrued leave payment will be treated as salary in calculating service credit and Highest Average Salary for retirement by applying the payment over the number of months as determined by the member's most recent monthly rate of pay. Additional service credit for these months will be included in the retirement benefit calculation. These months may also be used in the highest average salary calculation.
- (c) Salary includes an annual lump sum payment of accrued leave, other than sick, paid because the individual has accrued in excess of the maximum accumulation allowed by the employer's established leave policy.

### (2) Fringe Benefits

Salary does not include employer provided fringe benefits converted to cash payments in lieu of employer payment for the fringe benefits.

### (3) Performance or Merit Payments

Performance or merit payments are payments made pursuant to a written plan or policy which are in addition to regular salary or which replace regular salary increases in recognition of sustained employee performance over the evaluation period. In order for performance or merit payments to be treated as PERA salary pursuant to 24-51-101(42), C.R.S., the Association must have determined that the following criteria have been met:

- The payment must be for performance and is made pursuant to a written plan adopted by the employer which identifies which employees are covered by the plan;
- The written plan specifies objective criteria under which employees may participate in the plan and receive payments pursuant to the plan; and
- The written plan specifies the payments to be made under the plan or the method for determining the payments made under the plan.

All payments meeting the above criteria that are paid to DPS members who were eligible to retire as of January 1, 2011, shall be considered earned in the months for which the performance payment was based. All other payments meeting the above criteria shall be considered earned in the month in which the performance payment is made.

- (4) Contributions Under Internal Revenue Code Section 125 and 132 Salary shall not include amounts excluded from gross income under a cafeteria plan defined in Internal Revenue Code Section 125, or under a qualified transportation fringe benefit program defined in Internal Revenue Code Section 132(f)(4), so long as such deductions are made in equal periodic deductions through the year.
- (5) Payments made by an employer for differential pay, as defined in section 414(u)(12) of the Internal Revenue Code of 1986, as amended, shall be treated as PERA salary pursuant to 24-51- 101(42), C.R.S.
- (6) Tips

Tips received by a member for services rendered in connection with his or her employment by an employer shall be salary pursuant to section 24-51-101(42), C.R.S.

#### (7) One-time payments

PERA employers pay one-time, non-base building payments to their employees as compensation for services rendered. Under section 24-51-101(42), C.R.S., payments made to employees that are actually for services rendered can be PERA salary, but honorariums, cash awards, bonuses, and other payments enumerated in section 24-51-101(42)(b), C.R.S., are not PERA salary. This Rule sets forth the criteria that must be met in order for one-time payments to be PERA salary. One-time, non-performance and non-merit based payments paid by an employer shall be treated as PERA salary pursuant to section 24-51-101(42), C.R.S. if the Association determines that the following criteria have been met:

- The payment is a flat dollar amount or flat percentage to all employees in a particular class without regard to length of service. The class of employees must be a class that the employer regularly uses for purposes of setting base compensation; and
- The payment was pre-approved by the employer prior to the fiscal/academic year (the amount of the payment does not have to be approved at that time); and
- The payment is in no way designed to manipulate Highest Average Salary; and
- The employer provides the Association with documentation demonstrating its intent that the payment is a salary payment rather than a bonus.

If the Association determines that the above criteria have been met, then the payment shall be considered earned in the month in which the payment is made.

#### G. Highest Average Salary

- (1) In calculating Highest Average Salary, the Association shall sort the three periods of twelve consecutive months of service credit in chronological order.
- (2) For a member who was a member, inactive member, or retiree on December 31, 2006, and who has an effective date of retirement on or after January 1, 2009 and has more than 36 months of earned service credit and less than 48 months of earned service credit, the Highest Average Salary shall be calculated using the highest annual salaries associated with three periods of twelve consecutive months of service credit and no annual base salary shall be used.
- (3) For a member who was not a member, inactive member or retiree on December 31, 2006, and who has more than 36 months of earned service credit and less than 48 months of earned service credit, the Highest Average Salary shall be calculated using the highest annual salaries associated with three periods of twelve consecutive months of service credit and no annual base salary shall be used.
- (4) For purposes of section 24-51-101(25), C.R.S., and this Rule 1.20G, the term "highest annual salaries" shall mean the salaries associated with four periods of twelve consecutive months of service credit that when summed together achieve the highest cumulative value. The salaries associated with each individual twelve month period of service credit shall not be considered separately from the four-year cumulative total for purposes of determining which periods yield the "highest annual salaries."
- (5) This Rule 1.20G shall not apply to DPS members who are eligible to retire as of January 1, 2011.

## **Rule 2: Administration**

Rule 2 assigns affiliated employers to one of the five divisions, sets procedures for administrative review of Board decisions, describes the requirements for regular and special meetings of the Board of Trustees and general meetings of the Association, defines a quorum, describes the election of Board members and officers, and specifies the actuarial methods and assumptions used by the Association. Unless otherwise indicated, for the purposes of Rule 2, where applicable, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

### **2.15 Employer Assignments**

#### **A. State Division**

(1) Within the State Division, one group shall be designated Institutions of Higher Education, and the other shall be designated Agencies and Instrumentalities.

(A) The Institutions of Higher Education group of the State Division shall consist of the following employers and their employees and any other institutions of higher education established subsequent to the adoption of the Rules:

- Adams State College
- Aims Community College
- Arapahoe Community College
- Auraria Higher Education Center
- Aurora Community College
- Colorado Mesa University
- Colorado Mountain College
- Colorado Northwestern Community College
- Colorado School of Mines
- Colorado State University
- Colorado State University at Pueblo
- Commission on Higher Education
- Denver Community College
- Fort Lewis College
- Front Range Community College
- Lamar Community College
- Metropolitan State University of Denver
- Morgan Community College
- Northeastern Junior College
- Otero Junior College
- Pikes Peak Community College
- Pueblo Vocational Community College
- Red Rocks Community College
- State Board for Community Colleges and Occupational Education
- Trinidad State Junior College
- University of Colorado
- University of Northern Colorado
- Western State College

(B) The Agencies and Instrumentalities group of the State Division shall consist of the following employers and their employees and any other state agency or instrumentality established subsequent to the adoption of the Rules:

CollegelInvest  
College Assist  
Colorado Association of School Boards  
Colorado Association of School Executives  
Colorado Council on the Arts  
Colorado High School Activities Association  
Colorado Water Resources & Power Development Authority  
Colorado Community College System  
CoverColorado  
Department of Agriculture  
Department of Corrections  
Department of Education  
Department of Health Care Policy and Financing  
Department of Human Services  
Department of Labor and Employment  
Department of Law  
Department of Local Affairs  
Department of Military and Veterans Affairs  
Department of Natural Resources  
Department of Personnel and Administration  
Department of Public Health and Environment  
Department of Public Safety  
Department of Regulatory Agencies  
Department of Revenue  
Department of State  
Department of the Treasury  
Department of Transportation  
Fire and Police Pension Association  
General Assembly  
Joint Budget Committee  
Judicial Department  
Legislative Council  
Office of the District Attorneys  
Office of the Governor  
Office of Legislative Legal Services  
Office of the Lieutenant Governor  
Office of the State Auditor  
Pinnacol Assurance  
Public Employees' Retirement Association  
School for the Deaf and the Blind  
Special District Association of Colorado  
State Historical Society

B. The School Division shall consist of the following affiliated employers and their employees and any other school district established and affiliated subsequent to the adoption of the Rules:

Adams County

Adams 12 Five Star Schools  
Adams County School District 14  
Bennett School District 29J  
Brighton School District 27J  
Mapleton School District 1  
Strasburg School District 31J  
Westminster School District 50

Alamosa County

Alamosa County School District Re-11J  
Sangre de Cristo School District Re-22J

Arapahoe County

Adams-Arapahoe School District 28J  
Byers School District 32J  
Cherry Creek School District 5  
Deer Trail School District 26J  
Englewood School District 1  
Littleton School District 6  
Sheridan School District 2

Archuleta County

Archuleta County School District 50 Jt

Baca County

Campo School District RE-6  
Pritchett School District RE-3  
Springfield School District RE-4  
Vilas School District RE-5  
Walsh School District RE-1

Bent County

Las Animas School District RE-1  
McClave School District RE-2

Boulder County

Boulder Valley School District RE2  
St. Vrain Valley School District RE1J

Chaffee County

Buena Vista School District R-31  
Salida School District R-32(J)

Cheyenne County

Cheyenne County School District Re-5  
Kit Carson School District R-1

Clear Creek County

Clear Creek School District RE-1

Conejos County

North Conejos School District RE1J  
Sanford School District 6J  
South Conejos School District RE 10

Costilla County

Centennial School District R-1  
Sierra Grande School District R-30

Crowley County

Crowley County School District RE-1

Custer County

Custer County Consolidated School District C-1

Delta County

Delta County School District 50(J)

Dolores County

Dolores County School District Re No. 2

Douglas County

Douglas County School District Re 1

Eagle County

Eagle County School District Re 50

Elbert County

Agate School District 300  
Big Sandy School District 100J  
Elbert School District 200  
Elizabeth School District C-1  
Kiowa School District C-2

El Paso County

Academy School District #20  
Calhan School District RJ1  
Cheyenne Mountain School District 12  
Colorado Springs School District 11  
Edison School District 54 Jt  
Ellicott School District 22  
Falcon School District 49  
Fountain School District 8  
Hanover School District 28  
Harrison School District 2  
Lewis-Palmer School District 38  
Manitou Springs School District 14  
Miami/Yoder School District 60 Jt  
Peyton School District 23 Jt  
Widefield School District 3

Fremont County

Canon City School District Re-1

Cotopaxi School District Re-3  
Florence School District Re-2

Garfield County

Garfield School District 16  
Garfield School District Re-2  
Roaring Fork School District Re-1

Gilpin County

Gilpin County School District Re-1

Grand County

East Grand School District 2  
West Grand School District 1

Gunnison County

Gunnison Watershed School District Re1J

Hinsdale County

Hinsdale County School District Re-1

Huerfano County

Huerfano School District Re-1  
La Veta School District Re-2

Jackson County

North Park School District R-1

Jefferson County

Jefferson County School District R-1

Kiowa County

Eads School District Re-1  
Plainview School District Re-2

Kit Carson County

Arriba-Flagler Consolidated School District No. 20  
Bethune School District R-5  
Burlington School District Re-6J  
Hi-Plains School District R-23  
Stratton School District R-4

Lake County

Lake County School District R-1

La Plata County

Bayfield School District 10Jt-R  
Durango School District 9-R  
Ignacio School District 11 Jt

Larimer County

Estes Park School District R-3  
Poudre School District R-1

Thompson School District R-2J

Las Animas County

Aguilar Reorganized School District 6  
Branson Reorganized School District 82  
Hoehne Reorganized School District 3  
Kim Reorganized School District 88  
Primero Reorganized School District 2  
Trinidad School District 1

Lincoln County

Genoa/Hugo School District C-113  
Karval School District Re 23  
Limon School District Re 4J

Logan County

Buffalo School District Re-4  
Frenchman School District Re-3  
Plateau School District Re-5  
Valley School District Re-1

Mesa County

De Beque School District 49 Jt  
Mesa County Valley School District 51  
Plateau Valley School District 50

Mineral County

Creede Consolidated School District 1

Moffat County

Moffat County School District Re No.1

Montezuma County

Dolores School District RE 4A  
Mancos School District Re-6  
Montezuma-Cortez School District Re 1

Montrose County

Montrose County School District Re-1J  
West End School District Re-2

Morgan County

Brush School District Re-2 (J)  
Fort Morgan School District Re-3  
Weldon Valley School District Re-20 (J)  
Wiggins School District Re-50 (J)

Otero County

Cheraw School District 31  
East Otero School District R1  
Fowler School District R4J  
Manzanola School District 3J

Rocky Ford School District R2  
Swink School District 33

Ouray County

Ouray School District R-1  
Ridgway School District R-2

Park County

Park County School District Re-2  
Platte Canyon School District 1

Phillips County

Haxtun School District Re-2J  
Holyoke School District Re-1J

Pitkin County

Aspen School District 1

Prowers County

Granada School District Re-1  
Holly School District Re-3  
Lamar School District Re-2  
Wiley School District Re-13 Jt

Pueblo County

Pueblo City School District 60  
Pueblo County Rural School District 70

Rio Blanco County

Meeker School District RE1  
Rangely School District RE4

Rio Grande County

Del Norte School District C-7  
Monte Vista School District C-8  
Sargent School District Re-33J

Routt County

Hayden School District Re 1  
South Routt School District Re 3  
Steamboat Springs School District Re 2

Saguache County

Center Consolidated School District 26 Jt  
Moffat School District 2  
Mountain Valley School District Re 1

San Juan County

Silverton School District 1

San Miguel County

Norwood School District R-2J  
Telluride School District R-1

Sedgwick County

Julesburg School District Re 1  
Platte Valley School District Re3

Summit County

Summit School District Re 1

Teller County

Cripple Creek-Victor School District Re-1  
Woodland Park School District RE-2

Washington County

Akron School District R-1  
Arickaree School District R-2  
Lone Star School District 101  
Otis School District R-3  
Woodlin School District R-104

Weld County

Ault-Highland School District Re-9  
Briggsdale School District Re-10  
Eaton School District Re-2  
Gilcrest School District Re-1  
Greeley School District 6  
Johnstown-Milliken School District Re-5J  
Keenesburg School District Re-3  
Pawnee School District Re-12  
Platte Valley School District Re-7  
Prairie School District Re-11  
Weld County School District Re-8  
Windsor School District Re-4

Yuma County

Idalia School District RJ-3  
Liberty School District J-4  
Wray School District RD-2  
Yuma School District 1

Boards of Cooperative Educational Services (BOCES)

[Adams County Board of Cooperative Educational Services](#)

Centennial Board of Cooperative Educational Services  
East Central Board of Cooperative Educational Services  
Expeditionary Learning School Board of Cooperative Educational Services  
Grand Valley Board of Cooperative Educational Services  
Mountain Board of Cooperative Educational Services  
Northeast Board of Cooperative Educational Services  
Northwest Colorado Board of Cooperative Educational Services  
Pikes Peak Board of Cooperative Educational Services  
Rio Blanco Board of Cooperative Educational Services  
San Juan Board of Cooperative Educational Services  
San Luis Valley Board of Cooperative Educational Services

Santa Fe Trail Board of Cooperative Educational Services  
South Central Board of Cooperative Educational Services  
Southeastern Board of Cooperative Educational Services  
Ute Pass Board of Cooperative Educational Services

Boards of Cooperative Services (BOCS)

Uncompahgre Board of Cooperative Services

Vocational Schools

Delta-Montrose Area Vocational School

Other

Colorado Consortium for Earth and Space Science Education

C. Local Government Division

The Local Government Division shall consist of the following affiliated employers and their employees and any other entity of local government or public agency other than state that elect to affiliate with the Association:

Adams and Jefferson County Hazardous Response Authority

Alamosa Housing Authority

Arapahoe Park and Recreation District

Aurora Housing Authority

Baca Grande Water & Sanitation District

Beulah Water Works District

Black Hawk-Central City Sanitation District

Blanca-Fort Garland Metropolitan District

Boulder County

Boulder County Public Trustee's Office

Boxelder Sanitation District

Brush Housing Authority

Carbon Valley Park & Recreation District

Castle Pines Metropolitan District

Castle Pines North Metropolitan District

Center Housing Authority

Central Colorado Water Conservancy District

City of Alamosa

City of Boulder

City of Castle Pines

City of Colorado Springs

City of Fort Morgan

City of Las Animas

City of Lone Tree

City of Manitou Springs

City of Pueblo

City of Wray

City of Yuma

Clearview Library District

Collbran Conservancy District

Colorado District Attorneys' Council

Colorado First Conservation District  
Colorado Health Facilities Authority  
Colorado Housing and Finance Authority  
Colorado Library Consortium  
[Colorado River Fire Rescue Authority](#)  
Colorado School District Self-Insurance Pool  
Colorado Springs Utilities  
Columbine Knolls-Grove Metropolitan Recreation District  
Costilla Housing Authority  
County Technical Services  
Cucharas Sanitation and Water District  
Cunningham Fire Protection District  
Douglas County Housing Partnership  
Douglas County Libraries  
Durango Fire and Rescue Authority  
East Cheyenne Groundwater Management District  
East Larimer County Water District  
Eastern Rio Blanco Metropolitan Recreation & Park District  
Eaton Housing Authority  
Elbert County Library District  
Elizabeth Park and Recreation District  
El Paso – Teller County Emergency Telephone Service Authority  
[Estes Park Housing Authority](#)  
Estes Park Local Marketing District  
Estes Valley Fire Protection District  
Estes Valley Public Library District  
Forest Lakes Metropolitan District  
Fremont Conservation District  
Fremont Sanitation District  
Garfield County Housing Authority  
Grand Junction Regional Airport Authority  
Grand Valley Fire Protection District  
Green Mountain Water and Sanitation District  
GVR Metropolitan District  
Housing Authority of Arriba  
Housing Authority of the City of Boulder  
Housing Authority of the City of Colorado Springs  
Housing Authority of the County of Adams  
Housing Authority of the Town of Limon  
Lamar Housing Authority  
Lamar Utilities Board  
Left Hand Water District  
Longmont Housing Authority  
Longs Peak Water District  
Louisville Fire Protection District  
Meeker Cemetery District  
Meeker Regional Library District  
Meeker Sanitation District  
[Memorial Health System](#)

Montrose Fire Protection District  
Montrose Recreation District  
Monument Sanitation District  
Morgan Conservation District  
Morgan County Quality Water District  
Mountain View Fire Protection District  
Mountain Water and Sanitation District  
Niwot Sanitation District  
North Carter Lake Water District  
North Chaffee County Regional Library  
Northeast Colorado Health Department  
Northeastern Colorado Association of Local Governments  
Park Center Water District  
Pine Drive Water District  
Pikes Peak Regional Building ~~Authority~~ Department  
Plains Ground Water Management District  
Pueblo City-County Health Department  
Pueblo Library District  
Pueblo Transit Authority  
Pueblo Urban Renewal Authority  
Rampart Regional Library District  
Rangely Regional Library District  
Red Feather Mountain Library District  
Red, White & Blue Fire Protection District  
Republican River Water Conservation District  
Rifle Fire Protection District  
Rio Blanco Fire Protection District  
Rio Blanco Water Conservancy District  
Routt County Conservation District  
Sable-Altura Fire Protection District  
San Luis Valley Development Resources Group  
San Luis Valley Water Conservancy District  
San Miguel County Public Library District  
San Miguel Regional and Telluride Housing Authority  
Scientific and Cultural Facilities District  
Sheridan Sanitation District #1  
Soldier Canyon Filter Plant  
Statewide Internet Portal Authority  
Steamboat II Water and Sanitation District  
Strasburg Metropolitan Parks & Recreation District  
St. Vrain Sanitation District  
Tabernash Meadows Water and Sanitation District  
Town of Alma  
Town of Bayfield  
Town of Crawford  
Town of Dinosaur  
Town of Eckley  
Town of Estes Park  
Town of Firestone

Town of Lake City  
Town of Lochbuie  
Town of Mountain Village  
Town of Platteville  
Town of Rico  
Town of Rye  
Town of Seibert  
Town of Silver Plume  
Town of Timnath  
Tri-County Health Department  
Tri-Lakes Wasterwater Treatment Facility  
Upper Colorado Environmental Plant Center  
Washington-Yuma Counties Combined Communications Center  
Weld County Department of Public Health and Environment  
West Greeley Conservation District  
Western Rio Blanco Metropolitan Recreation and Park District  
White River Conservation District  
~~Windsor-Severance Library District~~  
Wray Housing Authority  
Yuma Housing Authority

#### D. Judicial Division

The Judicial Division shall consist of judges elected or appointed to positions in the following courts and any court established subsequent to the adoption of the Rules:

1st-22nd District Court  
Adams County Court  
Alamosa County Court  
Arapahoe County Court  
Archuleta County Court  
Baca County Court  
Bent County Court  
Boulder County Court  
Broomfield County Court  
Chaffee County Court  
Cheyenne County Court  
Clear Creek County Court  
Conejos County Court  
Costilla County Court  
Court of Appeals  
Crowley County Court  
Custer County Court  
Delta County Court  
Denver County Court  
Denver Juvenile Court  
Denver Probate Court  
Dolores County Court  
Douglas County Court  
Eagle County Court

Elbert County Court  
El Paso County Court  
Fremont County Court  
Garfield County Court  
Gilpin County Court  
Grand County Court  
Gunnison County Court  
Hinsdale County Court  
Huerfano County Court  
Jackson County Court  
Jefferson County Court  
Kiowa County Court  
Kit Carson County Court  
Lake County Court  
La Plata County Court  
Larimer County Court  
Las Animas County Court  
Lincoln County Court  
Logan County Court  
Mesa County Court  
Mineral County Court  
Moffat County Court  
Montezuma County Court  
Montrose County Court  
Morgan County Court  
Otero County Court  
Ouray County Court  
Park County Court  
Phillips County Court  
Pitkin County Court  
Prowers County Court  
Pueblo County Court  
Rio Blanco County Court  
Rio Grande County Court  
Routt County Court  
Saguache County Court  
San Juan County Court  
San Miguel County Court  
Sedgwick County Court  
Summit County Court  
Supreme Court  
Teller County Court  
Washington County Court  
Weld County Court  
Yuma County Court

E. Denver Public Schools Division

Denver Public School District No. 1

## 2.20 Administrative Review

### A. Request for Executive Director Initial Decision

A written request for an initial decision by the Executive Director must be received by the Association within 90 days after the date on which the staff decision is mailed. The staff decision shall be sent by certified mail.

### B. Request for Administrative Hearing

A written request for administrative hearing, including specifics, must be received by the Association within 45 days after the date on which the notice of the initial decision is mailed. The initial decision shall be made by PERA's Executive Director or the Executive Director's designee, and written notice of the initial decision shall be sent by certified mail.

### C. Notification of Scheduled Administrative Hearing

The person for whom the hearing is being conducted or their attorney, if represented, and the person representing the PERA administration will be notified by certified mail and first class mail of the time, date and place of the hearing no less than 45 days prior to the date of the hearing.

### D. Submission of Information Prior to the Hearing

(1) No less than 30 days prior to the date for which the hearing is scheduled, the person who requested the hearing and the person representing the PERA administration each shall submit: (a) a statement which includes the issues presented, a brief analysis of those issues, the names of all witnesses to appear, a brief description of their expected testimony, and (b) the written information to be considered at the hearing.

(2) No less than 20 days prior to the date for which the hearing is scheduled, the person who requested the hearing and the person representing the PERA administration each shall submit: a responsive statement including, to the extent appropriate, the same elements set forth in Rule 2.20 D (1)(a), and (b) and any additional written information to be considered at the hearing. After this submission, no further written information is to be submitted unless good cause is shown for the late submission.

### E. Burden of Proof

The person who requested the hearing shall bear the burden of proof by a preponderance of the evidence at the hearing.

### F. Consolidation of Administrative Hearings

Upon request of either party, the Board Chair at his or her discretion may direct consolidation of executive director initial decisions and/or administrative hearings in appropriate circumstances. The party requesting consolidation must make such request in writing no later than 30 days after a written request for executive director initial decision or administrative hearing is filed pursuant to Rule 2.20 A or B. Within 10 days of such a request, the other party may submit a written response stating that party's position regarding consolidation.

### G. Administrative Hearing

#### (1) Appointment of Panel Members

The Panel shall consist of three Board members appointed by the Chair.

## (2) Responsibilities of Panel

The Panel shall hear and consider the evidence and then shall issue written findings of fact, conclusions of law, and the decision. The Panel's decision shall constitute final administrative action appealable under Colorado Rule of Civil Procedure 106(a)(4) unless either party chooses to appeal the decision to the PERA Board pursuant to subparagraph (3) below. Written notice of the Panel's decision shall be sent by certified mail to each person who requested the hearing or to their attorney, if represented, and to the person representing the PERA administration.

## (3) Review by the Board

(a) Any party may choose to appeal the Panel's decision to the PERA Board. If any party chooses to appeal, it must submit a written request for review to the PERA Board, which must be received by the Association within 30 days after the date on which the Panel's decision is mailed. If no appeal is made to the PERA Board within the 30 days, the Panel's decision shall become final administrative action at the expiration of the 30 days to appeal to the PERA Board.

(b) If a request for review to the PERA Board is filed prior to the deadline, the PERA Board shall review the matter based on the existing evidentiary record. The Board's review of the matter shall be limited to issues of law and shall not include review of the factual findings by the Panel. The record for Board review shall include the written materials considered by the Panel, the findings of fact, conclusions of law, and the Panel's decision. The Board may permit briefs and oral argument, if requested by a party at the time of appeal. The three Board members who served on the Panel shall not participate in the Board's review. After review, the Board shall issue a written decision affirming, reversing, or modifying the Panel's decision. Alternatively, the Board may remand the matter to the Panel with instructions to conduct further factual findings on specific issues that will assist the Board in determining issues of law; however, the Board may not alter any factual findings made by the Panel. Once the Panel has conducted its additional factual findings, the matter shall be re-submitted to the Board to issue its written decision. Written notice of the Board's final decision shall be sent by certified mail to the parties or to their attorney, if represented, within 10 days of the date on which the written decision was made.

(4) If the PERA Board reviews the Panel's decision pursuant to subsection (3) of section (G) of this Rule, the Board's decision after its review shall constitute final administrative action appealable under Colorado Rule of Civil Procedure 106(a)(4).

## 2.90 Actuarial Assumptions

### A. Funding Method

The funding method used by the Association shall be the entry age actuarial cost method.

### B. Asset Valuation Method

The asset valuation method used by the Association shall be a "smoothed" market value of assets. The difference between actual market value actuarial gains from investment experience and the expected actuarial gains from investment experience is recognized over a four-year period.

### C. Actuarial Investment Assumption Rate

The actuarial investment assumption rate is 8.00 percent per year compounded annually, net after administrative expenses.

### D. Other Assumptions

Other actuarial assumptions set by the Board include the mortality table, and the probabilities of age and service retirement, withdrawal from service, disability, and death-in-service. These assumptions shall be set forth in the Association's *Comprehensive Annual Financial Report*, and, upon approval of the Report by the Board, such actuarial factors shall become part of the actuarial assumptions under Rule 2.90.

E. Money Purchase Benefits

The actuarial investment assumption rate and the mortality table shall be used in the actuarial determination of money purchase retirement benefits.

#### **Rule 4: Contributions**

Rule 4 requires the Association to prescribe the form in which the Contribution Report is submitted, describes procedures for correction of reporting errors, determines the calculation of interest due if either is delinquent, contains provisions regarding payment of unpaid contributions, describes the use of contributions for benefit payments and describes procedures for refunds. Unless otherwise indicated, for the purposes of Rule 4, except for Rule 4.25, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

#### **4.60 Working Retiree Contributions for Independent Contractors**

- A. When the working retiree contribution is due on an independent contractor, the employer must notify the Association and the Association shall offset the retirement benefit of the retiree in accordance with Rule 11.12F.
- B. Subject to subparagraph C. below, if the employer fails to notify the Association, and therefore the Association fails to collect the working retiree contribution via an offset of the retiree's benefits, the employer shall be responsible for the interest due on the contribution amount from the due date to the date the contributions are received.
- C. If the retiree independent contractor fails to report the compensation as required under PERA Rule 11.12 D.(2), the retiree shall be responsible for the interest on the working retiree contribution at PERA's actuarial investment assumption rate. The interest shall be collected via an offset of the retirement benefit of the retiree.

#### **Rule 8: Benefit Options**

Rule 8 describes the requirements for election of an option and designation of a named beneficiary or cobeneficiary. For the purposes of Rule 8, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

#### **8.30 Designation of Cobeneficiary Upon Marriage or Civil Union**

- A. For purposes of Section 24-51-802(3), C.R.S., a retiree may only elect once to change his or her option to option 2 or 3 and designate his or her new spouse, whether by marriage or civil union, as cobeneficiary. Once such election is made, the retiree may not make such designation again even is-if such election is revoked within 60 days as permitted by Section 24-51-802(1), C.R.S.
- B. For purposes of Section 24-51-802(3), C.R.S., a retiree who marries on or after January 1, 2011, must elect option 2 or 3 and designate his or her new spouse as cobeneficiary within 60 days of the date of

marriage. If such election is not made within 60 days, the retiree may not elect option 2 or 3 and designate his or her new spouse as cobeneficiary.

C. For purposes of Section 24-51-802(3), C.R.S., a retiree who enters into a civil union on or after January 1, 2014, must elect option 2 or 3 and designate his or her new spouse as a cobeneficiary within 60 days of the date of the civil union. If such election is not made within 60 days, the retiree may not elect option 2 or 3 and designate his or her new spouse as cobeneficiary.

## **Rule 11: Employment After Retirement**

Rule 11 describes conditions under which retirees may be employed with and without a reduction or suspension of benefits, describes the conditions under which employer contributions must be paid on retirees performing services after retirement for a PERA employer and describes the conditions for recalculation of benefits upon termination of employment after retirement. Unless otherwise indicated, for the purposes of Rule 11, the term “member” shall include DPS members and the term “retiree” shall include DPS retirees.

### **11.12 Employer Contributions and Working Retiree Contributions on Retiree Service**

- A. A PERA employer that receives the services of a retiree, other than as a volunteer, under the conditions specified in this Rule, shall remit employer contributions to the Association in the manner specified in 24-51-401, C.R.S. and this Rule. Working retiree contributions shall also be due on such a retiree in accordance with the provisions of Rule 4.60 and paragraph (F) of this Rule. Employer contributions and working retiree contributions shall be due to the Association only if a retiree is the individual performing services for a PERA employer. Employer contributions and working retiree contributions shall not be due to the Association for a retiree if no services are provided to a PERA employer by the retiree. Employer contributions and working retiree contributions shall not be due to the Association for a retiree who provides products or goods to a PERA employer rather than services.
- B. Ownership of up to 5 percent of a publicly traded company registered on a national securities exchange by a retiree shall not constitute ownership of the company or cause the company to be an affiliated party of the retiree for purposes of 24-51-1101(2), C.R.S. Any other form or degree of ownership in an entity providing services to a PERA affiliated employer shall constitute ownership or operation of the entity for purposes of 24-51-1101(2), C.R.S.
- C. For purposes of 24-51-1101(2), C.R.S. an affiliated party shall include:
  - (1) any person who is the named beneficiary or cobeneficiary on the PERA account of the retiree,
  - (2) any person who is a relative of the retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren,
  - (3) any person who is a relative of the retiree by marriage or civil union to and including spouse, spouse’s parents, step-parents, step-children, step-siblings, and spouse’s siblings, and
  - (4) any person or entity with whom the retiree has an agreement to share or otherwise profit from the performance of services for a PERA employer by the retiree other than the retiree’s regular salary or compensation.
- D. When employer contributions or working retiree contributions are due to the Association as a result of services provided by a retiree, the amount of contributions shall be based on the following:

- (1) If the services provided to a PERA employer by the retiree are the specific subject of an agreement with the PERA employer, the retiree shall disclose the amount agreed upon and the amount of employer contributions and working retiree contributions shall be based on the amount received by the retiree as specified in the agreement which, if paid directly by a PERA employer, would constitute salary under 24-51-101(42), C.R.S.
- (2) If the services provided to a PERA employer by a retiree are not the specific subject of an agreement with the PERA employer, then the retiree shall disclose the amount of compensation received by the retiree for services the retiree is providing to the PERA employer. Retiree shall report monthly to the Association and the PERA employer the amount received for the services provided to the PERA employer and shall specify the amount of compensation received which, if paid directly by a PERA employer, would constitute salary under 24-51-101(42), C.R.S. The PERA employer shall remit employer contributions to the Association within 30 days after receipt of the retiree's disclosure. Working retiree contributions shall also be due in accordance with the provisions of Rule 4.60 and paragraph (F) of this Rule.
- (3) If a retiree fails to report the compensation required under subsection D.(2) then the retiree shall be responsible to pay the employer contribution required by 24-51-1101(2), C.R.S. together with interest on the employer contribution and the working retiree contribution at PERA's actuarial investment assumption rate. Any amounts due under this subsection D.(3) shall be collected via an offset of the retirement benefit of the retiree.

- E. Regular salary or compensation received by the retiree as an employee of an entity which is not owned or operated by the retiree or any affiliated party shall not be subject to employer contributions or working retiree contributions.
- F. Working retiree contributions for independent contractors shall be collected via an offset of the retiree's retirement benefit to the point that the full benefit is offset. Any contributions due in excess of the amount of the retirement benefit must be paid directly to the Association within 30 days after the services are provided to the PERA employer.

## **Rule 12: Health Care Program**

Rule 12 describes requirements for enrollment and payment of premiums for the Health Care Program. For the purposes of Rule 12, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

### **12.10 Enrollment**

Enrollment in the Health Care Program is subject to receipt by the Association of the prescribed enrollment form(s).

#### **A. Enrollment When First Eligible**

##### **(1) Enrollment of Benefit Recipients**

- (a) Service retirees and reduced service retirees may enroll themselves and any eligible dependents for whom coverage is desired within 30 days after the date of the first benefit payment.
- (b) Survivor benefit recipients and disability retirees may enroll within 30 days after the date of the first benefit payment.

- (c) A surviving cobeneficiary who was not enrolled in the Program may enroll within 30 days after the date of death of the retiree. Coverage and requisite premium deductions will continue for a cobeneficiary whose coverage was in effect at the death of the retiree unless the cobeneficiary requests cancellation of coverage.

## (2) Enrollment of Spouses Not Receiving Benefits

- (a) The surviving spouse of a retiree who elected Option 1, or a DPS retiree who elected a single life annuity, must notify the Association in writing within 30 days after the date of death of the retiree in order to continue the coverage which was in effect at the death of the retiree.
- (b) The divorced spouse of a retiree must notify the Association in writing within 30 days after the date of the divorce in order to continue the coverage which was in effect at the time of the divorce.
- (c) For purposes of Section 24-51-1204(1)(b), C.R.S., a single life annuity under the DPS benefit structure shall include Option A, Option B, and Option D.

## (3) Enrollment of New Dependents

- (a) Newborn or newly adopted children may be enrolled within 30 days after the date of birth or adoption. Other children may be enrolled within 30 days after the date they become qualified as described in 24-51-1204(1)(a), C.R.S.
- (b) Spouses may be enrolled within 30 days after the date of marriage or civil union.
- (c) Dependent parents may be enrolled within 30 days after the date they become dependent parents as described in 24-51-101(14), C.R.S.

## B. Enrollment Upon Loss of Other Coverage

Benefit recipients and others eligible for coverage who are not enrolled in the Health Care Program may enroll within 30 days after loss of other coverage.

## C. Enrollment Upon Reaching Medicare Eligibility

- (1) Benefit recipients and others eligible for coverage who are covered by another health care plan may enroll in the Health Care Program within 30 days after reaching Medicare eligibility.
- (2) Persons enrolled in the Health Care Program may change coverage from one health plan sponsored by the Program to another within 30 days after reaching Medicare eligibility.

## D. Open Enrollment

A period of open enrollment shall be held annually. Benefit recipients may enroll themselves and their eligible dependents during the annual open enrollment period.