

**Amendment Ten to the
Public Employees Retirement System of Ohio
Defined Contribution Plan**

WHEREAS, the Public Employees Retirement System of Ohio Defined Contribution Plan ("Plan") was originally effective January 1, 2003;

WHEREAS, the Public Employees Retirement Board, as Trustees of the Plan ("Trustees"), reserved the right to amend the Plan pursuant to Article XXII of the Plan;

WHEREAS, the Trustees now desire to amend the Plan;

NOW, THEREFORE, the Plan is hereby amended as follows, effective as of January 7, 2013:

1. Preamble, describing the establishment of the Defined Contribution Plan is hereby enacted to be and read as follows:

Now, therefore, effective January 1, 2003, the Public Employees Retirement Board hereby establishes the Public Employees Retirement System of Ohio Defined Contribution Plan, a defined contribution plan under Code Section 401(a). The Plan consists of the provisions set forth in this document, the following sections of Chapter 145. of the Ohio Revised Code, and any rules adopted pursuant to section 145.80 of the Ohio Revised Code: 145.80 through 145.98; 145.22, 145.221 [145.22.1], 145.23, 145.25, 145.26, 145.27, 145.296 [145.29.6], 145.38, ~~145.382 [145.38.2]~~, ~~145.383 [145.38.3]~~, 145.384 [145.38.4], 145.391 [145.39.1], 145.43, 145.431 [145.43.1], 145.47, 145.48, 145.483 [145.48.3], 145.51, 145.52, 145.53, 145.54, 145.55, 145.56, 145.563 [145.56.3], 145.57, 145.571 [145.57.1], 145.572 [145.57.2], 145.573 [145.57.3], 145.574 [145.57.4], 145.69, and 145.70.

2. Section 2.01(a) of the Plan, describing elections to participate in the Plan is hereby enacted to be and read as follows:

(a) Except as provided in subsection (c), an individual who becomes employed in a position subject to Chapter 145. of the Ohio Revised Code on or after the Effective Date may elect to become a Participant in this Plan not later than one hundred eighty (180) days after the date on which the individual's employment begins. An election shall be made ~~in writing~~ on an Applicable Form filed with the System or, if designated by the Administrator, the Service Manager. An election shall be effective as of the date employment begins and, except as provided in Section 2.03 and section 145.814 of the Ohio Revised Code, is irrevocable on receipt.

3. Section 2.01(c) of the Plan, describing elections to participate in the Plan is hereby enacted to be and read as follows:

(c) An individual is ineligible to make an election to participate in this Plan under this Section if one of the following ~~apply~~ applies:

(1) ~~At the time employment begins, the~~ The individual is a PERS retirant or other system retirant, as those terms are defined in section 145.38 of the Ohio Revised Code, or is retired under section 145.383 of the Ohio Revised Code;

(2) The individual is participating in an alternative retirement plan under Chapter 3305. of the Ohio Revised Code and is employed in a position described in section 3305.05(E) of the Ohio Revised Code;

(3) ~~At the time employment begins, the~~ The individual has contributions standing to the individual's credit in the Employees' Savings Fund or Defined Contribution Fund;

(4) The individual is employed in a position covered under Chapter 145. of the Ohio Revised Code to which section 145.193 of the Ohio Revised Code applies;

(5) The individual is a PERS Law Enforcement Officer or PERS Public Safety Officer.

4. **Section 2.06 of the Plan**, describing elections to participate in the Plan is hereby enacted to be and read as follows:

2.06 Election Procedure. All elections to participate are governed by sections 145.19, 145.191, 145.192, 145.193, 145.194, and 145.814 of the Ohio Revised Code and rules adopted by the Board.

5. **Section 3.02 of the Plan**, describing employer contributions to the Plan is hereby enacted to be and read as follows:

3.02 Employer Contributions. The Employer contribution to the Plan shall be a percentage of Earnable Salary as determined by the Board under sections 145.48 and 145.86 of the Ohio Revised Code less ~~both~~ all of the following: (i) any amount required under section 145.87 of the Ohio Revised Code to mitigate any negative financial impact on the System of Members participation in this Plan, as determined by the Actuary, ~~and~~ (ii) any amount established pursuant to section 145.88 of the Ohio Revised Code to fund a program established under section 145.83 of the Ohio Revised Code, ~~and~~ (iii) any administrative fee established under Section 21.03. Contributions under this Section shall be deposited in the Employer Contribution Account. For each Employee granted disability leave under a program sponsored by an Employer, the Employer shall make contributions pursuant to section 145.296 of the Ohio Revised Code.

6. **Section 3.06 of the Plan**, describing additional contributions by elected or appointed officials to the Plan is hereby enacted to be and read as follows:

3.06 Elected or Appointed Officials. When a Participant has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the Participant is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the Participant may elect to have the amount of the Participant's and Employer's contributions calculated upon the basis of the increased salary for the office. At the Participant's request and on notification to the System, the Board shall compute the total additional amount the Participant and the Employer would have contributed, or the amount by which each of the Participant's and Employer's contributions would have increased, had the Participant received the increased salary for the office the Participant holds. If the Participant elects to have the combined amount by which the Participant's and Employer's contribution would have increased withheld from the Participant's salary, the Participant shall notify the Employer, and the Employer shall make the withholding commensurate with the period of denied salary and transmit it to the System.

~~A Participant who has not elected to have that amount withheld may elect at any time to make a payment to the System equal to the amount the Participant's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the Board and computed from the date on which the last contribution would have been withheld from the Participant's salary to the date of payment. A Participant may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. For purposes of Article IV, the Participant's compensation shall only include those amounts actually paid to the Participant.~~

~~Contributions under this Section which~~ The payment of the amount by which the Participant's contribution would have increased will, if the contributions are picked-up will, be credited to the Participant Contribution Account and contributions payments made on an after-tax basis will be credited to the Miscellaneous Contribution Account. The payment of the amount by which the Employer's contribution would have increased shall be credited to the Employer Contribution Account. If a Participant dies or withdraws from service, the payment of the amount by which the Employer's contribution would have increased shall be considered the Accumulated Contributions of the Participant.

7. **Section 3.07 of the Plan**, describing delinquent contributions to the Plan is hereby enacted to be and read as follows:

3.07 Delinquent Contributions. Upon a finding that an Employer failed to deduct contributions pursuant to section 145.85 of the Ohio Revised Code during a period of employment for which such contributions were required, a statement of delinquent contributions shall be prepared showing the amount the Contributor and Employer would have contributed had regular payroll deductions been taken. Simple interest from the end of each calendar year at a rate ~~set by the Board equal to the assumed~~ actuarial rate of interest at the time the statement is prepared shall be included. If delinquent contribution statements are paid later than thirty (30) days after the end of the calendar month in which they become an obligation of the Employer, any balance remaining shall be collected with penalties and interest pursuant to section 145.51 of the Ohio Revised Code, and subject to Article IV, as applicable.

8. **Section 4.02(c) of the Plan**, describing the Internal Revenue Code limits under section 415 is hereby enacted to be and read as follows, effective January 1, 2008:

(c) If the annual addition for a Participant under the Plan, determined without regard to the limitation of paragraph (a), would have been greater than the annual addition for such Participant as limited by paragraph (a), then the excess, ~~if due to a reasonable error in estimating compensation or such other circumstances as found by the Secretary of the Treasury to justify application of this paragraph,~~ shall be reduced, ~~to the extent necessary to satisfy such limitation by holding the excess unallocated in a suspense account and using it to reduce Employer contributions in subsequent Plan Years corrected in accordance with the Internal Revenue Service correction procedures under Revenue Procedure 2008-50, or any successor thereto.~~

9. **Section 4.02(h) of the Plan**, defining compensation for purposes of Internal Revenue Code section 415 is hereby enacted to be and read as follows, effective January 1, 2008:

(h) For purposes of this Section, "compensation" means compensation as defined in Code Section 415(c)(3). In general, Code Section 415(c)(3) defines compensation as all of a Participant's wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation shall also include the amount of any elective deferrals, as defined in Code Section 402(g)(3); any amount contributed or deferred by the Employer at election of the Employee and which is not includible in the gross income of the Employee by reason of Code Section 125, 132(f), or 457; and effective January 1, 2009, differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code. "Compensation" for purposes of this Section shall not include any picked-up Employee contributions to this Plan.

In addition, compensation shall include the following amounts:

(1) Regular Compensation for Services. Compensation shall include regular compensation for services that, absent a severance from service, would have been paid to the Participant if the

Participant continued in employment with the Employer, in accordance with regulation section 1.415(c)-2(e)(3)(ii), to the extent required under regulation section 1.415(c)-2(e)(3)(i).

- (2) Payments to Reservists. Compensation shall include payments to a Participant who does not currently perform services for an Employer by reason of qualified military service made in accordance with the Employer's current policy with regard to such qualified military service, to the extent these payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service, in accordance with regulation section 1.415(c)-2(e)(4).
- (3) Back Pay. Compensation shall include payments of back pay within the meaning of regulation section 1.415(c)-2(g)(8).

"Compensation" shall not include the following amounts:

- (1) Foreign Compensation. Compensation shall not include amounts paid as compensation to a nonresident alien, as defined in Code Section 7701(b)(1)(B), who is not a Participant, to the extent the compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States, in accordance with regulation section 1.415(c)-2(g)(5)(ii).
- (2) Scheduled Deferred Compensation Payments. Compensation shall not include payments to a Participant in accordance with a nonqualified unfunded deferred compensation plan, even if such amount would have been paid at the same time if employment had continued, in accordance with regulation section 1.415(c)-2(e)(3)(iii)(B).
- (3) Disability Payments. Compensation shall not include amounts received on account of the Participant's permanent and total disability (as defined in Code Section 22(e)(3) and described in regulation section 1.415(c)-2(g)(4)).
- (4) Cross-Over Year Payments. Compensation shall not include amounts earned during the limitation year but not paid during that limitation year solely because of the timing of pay periods and pay dates if these amounts are paid during the first few weeks of the next limitation year as permitted under regulation section 1.415(c)-2(e)(2).

10. **Section 6.01 of the Plan**, describing transfers from the Plan to the Defined Benefit Plan is hereby enacted to be and read as follows:

6.01 Transfer from this Plan to the Defined Benefit Plan. Not later than one hundred eighty (180) days after the effective date of an election to transfer under Section 2.03, a Participant in this Plan who has elected to become a Participant in the Defined Benefit Plan under that Section may transfer funds from this Plan to the Defined Benefit Plan in order to purchase service credit in the Defined Benefit Plan for the Participant's Years of Participation in this Plan. The Actuary shall determine the total amount of additional liability for each Year of Participation which is eligible for purchase. In addition to the eligibility requirements specified in sections 145.35, 145.36, 145.361, 145.45, or 145.451 of the Ohio Revised Code, a Participant who transfers funds to the Defined Benefit Plan under this Section is not eligible for benefits under those sections until one (1) year following the date the Participant begins participation in the Defined Benefit Plan.

A Participant may transfer funds from the following Accounts to purchase service credit in the Defined Benefit Plan as calculated under this Section: Participant's Contribution Account, vested portion of Employer Contribution Account, Rollover Account, or Miscellaneous Contribution Account. All transfers under this Section shall be made in accordance with section 145.814 of the Revised Code and are subject to the applicable provisions of the Defined Benefit Plan and any rules adopted by the Board.

~~For each Year of Participation in this Plan that is purchased in the Defined Benefit Plan, the Administrator shall cancel a corresponding Year of Participation in this Plan.~~ If a Participant who elected a transfer of ~~accumulated contributions~~ Accumulated Contributions under Section 2.02(a)(1) also transfers funds from this Plan to the Defined Benefit Plan under this Section, all or a portion of the Participant Contribution Account shall be used to restore the cancelled service credit described in Section 2.02(a)(3) in accordance with rules adopted by the Board.

11. **Section 6.02 of the Plan**, describing transfers from this Plan to the Combined Plan is hereby enacted to be and read as follows:

6.02 Transfer from this Plan to the Combined Plan. Not later than one hundred eighty (180) days after the effective date of an election to transfer under Section 2.03, a Participant in this Plan who has elected to become a Participant in the Combined Plan under that Section may transfer funds from this Plan to the Combined Plan in order to purchase service credit in the Combined Plan for the Participant's Years of Participation in this Plan. The Actuary shall determine the total amount of additional liability for each Year of Participation which is eligible for purchase. A Participant may transfer funds from the following Accounts to purchase service credit in the Combined Plan as calculated under this Section: Participant's Contribution Account, vested portion of Employer Contribution Account, Rollover Account, or Miscellaneous Account. All transfers under this Section shall be made in accordance with section 145.814 of the Revised Code and are subject to the applicable provisions of the Combined Plan and any rules adopted by the Board. ~~For each Year of Participation in this Plan that is purchased in the Combined Plan, the Administrator shall cancel a corresponding Year of Participation in this Plan.~~

If a Participant who elected a transfer of ~~accumulated contributions~~ Accumulated Contributions under Section 2.02(a)(1) also transfers funds from this Plan to the Combined Plan under this Section, for purposes of determining eligibility for a benefit under Article IX of the Combined Plan and determining eligibility and calculation of a benefit under Articles X and XI of the Combined Plan, the Participant shall receive Years of Contributing Service in the Combined Plan in an amount that corresponds to the amounts transferred under Section 2.02(a)(1).

12. **Section 9.01 of the Plan**, describing eligibility for retirement under the Plan is hereby enacted to be and read as follows:

9.01 Eligibility. A Participant who has attained age fifty-five (55), who has left on deposit the amounts described in Article VIII, and whose Public Service Terminates may, on application of the Participant, be paid the sum of the Participant's Vested Accounts under a payment option described in Section 9.02, subject to Article X. Retirement under this Article shall be effective on the date a Participant receives a distribution under Section 9.02. The effective date of a payment option under Section 9.02 shall be the first of the month following the ~~later~~ latest of: (1) the last day for which Earnable Salary was paid; (2) the attainment of minimum age eligibility under this Section; or (3) ~~a date determined by the Participant; or~~ (4) the date the ~~system~~ System receives an application for a payment option under this Section.

13. **Section 9.02(d) of the Plan**, describing the payment options under the Plan is hereby enacted to be and read as follows:

(d) The death of a spouse or any designated Beneficiary following commencement of benefits under this Section shall cancel the portion of the monthly annuity plan payment providing continuing lifetime benefits to the deceased spouse or deceased designated Beneficiary. The retired Participant shall receive the actuarial equivalent of the retired Participant's single life annuity, as determined by the Board, based on the number of remaining Beneficiaries, with no change in the amount payable to any remaining Beneficiary. The change shall be effective the month following receipt ~~by the Board of notice of the~~ date of death.

14. Section 17.06 of the Plan, describing confidentiality of records is hereby enacted to be and read as follows:

17.06 Confidentiality.

(a) As used in this Section, "personal history record" means information maintained by the Administrator on an individual who is a Participant, former Participant, Member, former Member, Contributor, former Contributor, retirant, or Beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the Administrator, or other information the Administrator determines to be confidential.

(b) The records of the Administrator shall be open to public inspection and may be made available in printed or electronic format, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's statement of previous service and other information as provided for in section 145.16 of the Ohio Revised Code;

(2) The amount of a benefit paid to the individual;

(3) The individual's personal history record.

(c) Notwithstanding the exceptions to public inspection in Section 17.06(b), the Administrator may furnish the following information:

(1) If a Participant, former Participant, Member, former Member, Contributor, former Contributor, or retirant is subject to an order issued under section 2907.15 of the Ohio Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Ohio Revised Code, on written request of a prosecutor, as defined in section 2935.01 of the Ohio Revised Code, the Administrator shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Ohio Revised Code, the Administrator shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the Administrator shall provide to the person a list of the names and addresses of Participants, former Participants, Members, former Members, Contributors, former Contributors, retirants, or Beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen (14) days after receiving from the Director of Job and Family Services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Ohio Revised Code, the Administrator shall inform the Auditor of State of the name, current or most recent employer address, and social security number of each Member whose name and social security number are the same as that of a person whose name or social security number was submitted by the Director. The Administrator shall, except for purposes of furnishing the Auditor of State with information required by this Section, preserve the confidentiality of recipients of public assistance in compliance with section 5101.181(A) of the Ohio Revised Code.

(5) The Administrator shall comply with orders issued under section 3105.87 of the Ohio Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Ohio Revised Code, the Administrator shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Ohio Revised Code.

(6) At the request of any person, the Board shall make available to the person copies of all documents, including resumes, in the Board's possession regarding filling a vacancy of an employee member or retirant member of the Board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this Section 17.06(c)(6) is a public record.

(7) The System shall provide the notice required by section 145.573 and 145.574 of the Revised Code to the prosecutor assigned to the case.

(8) The System may provide information requested by the United States social security administration, United States centers for medicare and medicaid, Ohio public employees deferred compensation program, Ohio police and fire pension fund, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or Cincinnati retirement system.

(d) A statement that contains information obtained from the Administrator's records that is signed by the executive director or an officer of the System and to which the System's official seal is affixed, or copies of the Administrator's records to which the signature and seal are attached, shall be received as true copies of the Administrator's records in any court or before any officer of this State.

(e) For purposes of this section, the Board may maintain records in printed or electronic format.

(f) Any Service Manager shall be bound by the provisions of this Section. Any Service Manager must obtain approval from the Administrator prior to the release of any information under Section 17.06(c)(1)-(5) and (7)-(8).

15. Section 21.03(a) of the Plan, describing the Board's duties and powers over the Plan is hereby enacted to be and read as follows:

(a) The Board shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable, or convenient to enable the Board to carry out its duties under the Plan. By way of illustration and not limitation, the Board is empowered and authorized:

(1) To establish rules, regulations, and procedures with respect to administration of the Plan, not inconsistent with the Plan and the Code, and to amend or rescind such rules, regulations, or procedures;

(2) To establish an administrative fee, which shall be used to pay reasonable expenses of the Plan and ~~shall~~ may be withheld from contributions under Section 3.02 or 3.03;

(3) To establish an administrative fee, which shall be used to pay reasonable expenses of the Plan for ~~Inactive Participants~~ and shall may be withheld from the Participant's Contribution Account or the Employer Contribution Account;

(4) To determine, consistently with the Plan, applicable law, rules, or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees, and former Employees;

(5) Pursuant to Articles VIII and IX of the Plan, to make payments from the Trust Fund to Participants, their Beneficiaries, and other persons as the Board may determine;

(6) To contract with one or more Service Managers to perform education, recordkeeping, and administrative services under this Plan;

(7) To accept service of legal process;

(8) If a written election or consent is not specifically required by the Code, to prescribe a verbal, electronic, or telephonic instruction in lieu of or in addition to a written form;

(9) Subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission, or reconcile any inconsistency in the Plan with respect to same;

(10) To perform any other duties or exercise any other powers granted under Chapter 145. of the Ohio Revised Code.

16. **Section 21.08 of the Plan**, describing the payment of the expenses of the Plan is hereby enacted to be and read as follows:

21.08 Payment of Expenses. All expenses and costs associated with the administration and investments of the Plan shall be assessed against Plan assets, as determined by the Board. ~~Administrative costs shall be explicitly assessed against individual Participant Accounts.~~ Investments costs shall be assessed explicitly against each specific Investment Option in a manner determined by the Board and approved by appropriate federal regulating entities, if necessary.

17. **In all other respects**, the Plan shall be and remain unchanged.

IN WITNESS WHEREOF the undersigned has executed this Amendment on the date indicated:

1-7-13
Date

Karen Carraher
Karen Carraher, Executive Director