FPPA

Fire & Police Pension Association
of Colorado

Statewide Hybrid Plan Rules and Regulations

(Codified September ~~29~~28, ~~2016~~ 2017 to be effective January 1, ~~2017~~2018)

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FIRE AND POLICE PENSION ASSOCIATION OF COLORADO
STATEWIDE HYBRID PLAN

RULES AND REGULATIONS

Whereas, the Board of the Fire and Police Pension Association ("Board") has maintained a statewide defined benefit plan since January 1, 1980 ("Statewide Defined Benefit Plan");

Whereas, pursuant to the provisions of C.R.S. § 31-31-1102, as added by Senate bill 03-057, the Board is authorized to develop, maintain and amend a Statewide Hybrid Plan to provide a combination of defined benefit and money purchase retirement benefits to the Members of those Employers who have either (1) established a local money purchase plan pursuant to C.R.S. § 31-30.5-801 or 31-31-601 or (2) withdrawn into the Statewide Money Purchase Plan pursuant to C.R.S. § 31-31-501 and elected to participate in the Statewide Hybrid Plan under C.R.S. § 31-31-1101;

Whereas, the Statewide Hybrid Plan is intended to comply with the qualification requirements specified in Section 401 of the Internal Revenue Code of 1986, as amended and applicable to governmental plans ("Code");

Whereas, the Board has convened a task force to study the elements of such a Plan, which task force has reported its findings to the Board;

Whereas, the Board has considered the task force's recommendations and has consulted with legal counsel and others regarding the Plan design;

Whereas, pursuant to the provisions of C.R.S. § 31-31-1102(2)(c), the Board shall act as the trustee, holding the assets in trust, and the plan sponsor of the Statewide Hybrid Plan, and have those fiduciary duties with respect to the Statewide Hybrid Plan and the Members of the Plan as expressly provided by law;

Whereas, the Board has determined that it wishes to structure the program as the Defined Benefit System, which will consist of the Statewide Defined Benefit Plan and the Statewide Hybrid Plan in order to provide enhanced benefit options for Members and ease of administration;

Whereas, the Board has determined that the Statewide Hybrid Plan will have two components, a defined benefit component and money purchase component;

Whereas, Employers who have either established a local money purchase plan or withdrawn into the Statewide Money Purchase Plan may apply for coverage in the Statewide Hybrid Plan by filing a Resolution to cover their Members hereunder;

Whereas, the Board has previously adopted the Fire and Police Pension Association Statewide Hybrid Plan Document, which will be submitted to Members; and

Whereas, the Board now wishes to establish Rules and Regulations, which will govern the Statewide Hybrid Plan, to be effective January 1, 2012.

ARTICLE I - DEFINITIONS AND RULES OF CONSTRUCTION

1.01. Definitions. As used in these Rules and Regulations, the following terms are defined as follows unless the context requires otherwise:

(a) "**Actuarial Equivalent**" means equality in value of the aggregate amount expected to be received under different forms of payment, based on the actuarial assumptions as approved by the FPPA Board of Directors, used in the Plan's most recent actuarial valuation.

(b) "**Accounts**" means the accounts maintained by the Plan Administrator for each Member in the MP Component of the Plan. Each Member may have a Member Account, a Member Rollover Account, a Member Voluntary Account, a Member Transfer Account, an Employer Account, an Employer Transfer Account, and an Employer Voluntary Account, all of which shall be held in the Fund.

(c) **"Aggregate Account"** means the value of all Accounts in the MP Component maintained on behalf of a Member, whether attributable to Employer or Member contributions.

(d) **"Applicable Form"** means the appropriate form as designated and furnished by the Plan Administrator to make an election or provide a notice as required by the Plan, including a form in electronic medium.

(e) **"Authorized Leave of Absence"** includes a military leave of absence and a medical leave of absence, and means an absence during which the employee does not receive compensation for one month or more, but less than two years, during which the employee has not been terminated from employment.~~means any absence authorized by the Employer under the Employer's standard personnel practices, including absence due to service in the military, provided that all persons under similar circumstances are treated alike in the granting of such Authorized Leaves of Absence and provided further that such leave shall end as of the date to which it was extended.~~

(f) **"Base Salary"** means the total base rate of pay, including Member contributions to the Defined Benefit System that are "picked up" by the Employer. The definition of Base Salary is subject to the following conditions:

(1) The definition of Base Salary shall also include longevity pay, sick leave pay taken in the normal course of employment, vacation leave pay taken in the normal course of employment, shift differential, and mandatory overtime that is part of the Member's fixed, periodic compensation.

(2) Accumulated vacation leave pay shall also be included if a Member completes his or her service requirement for purposes of normal retirement while exhausting accumulated vacation leave.

(3) Base salary shall not include overtime pay (except as noted in (1) above), step-up pay or other pay for temporarily acting in a higher rank, uniform allowances, accumulated sick leave pay, accumulated vacation leave pay (except as noted in (2) above), and other forms

of extra pay (including Member contributions which are paid by the Employer and not deducted from the Member's salary). A Member is deemed to be temporarily acting in a higher rank if the appointment to the rank is anticipated to last less than six months.

(4) In the event an Employer has established or does establish a deferred compensation plan in addition to the Defined Benefit System, the amount of the Member's salary that is deferred shall be included in the Member's base salary.

(5) Any amounts voluntarily contributed to an Internal Revenue Code Section 125 "Cafeteria Plan" shall be included in the Member's Base Salary.

(g) **"Board"** means the Board of Directors established as the governing body of the Fire and Police Pension Association of Colorado.

(g)(1) **"Civil Union"** means a relationship established by two eligible persons pursuant to § 14-15-101, et seq., C.R.S., the Colorado Civil Union Act, that entitles them to receive the benefits and protections and be subject to the responsibilities of spouses.

(h) **"Code"** means the provisions of the Internal Revenue Code of 1986, as amended, applicable to governmental plans and, where appropriate, the Internal Revenue Code of 1954.

(i) **"C.R.S."** means the Colorado Revised Statutes, as amended from time to time.

(j) "**DB Component"** is the defined benefit arrangement in the Statewide Hybrid Plan.

(k) **"Defined Benefit System" or "System"** is a defined benefit plan, which is a qualified retirement plan under Section 401(a) of the Internal Revenue Code of 1986, and a governmental plan exempt from the provisions of Title I of the Employee Retirement Income Security Act of 1974 pursuant to § 4(b)(1) of that Act. The System has three tiers: the Statewide Defined Benefit Plan under Part 4 of C.R.S. 31-31; the Colorado Springs New Hire Pension Plan under C.R.S. 31-31-706(2)(a); and the Statewide Hybrid Plan.

(l) **"Designated Beneficiary"** means the person(s), estate, or trust designated by a Member in writing to the Plan Administrator, entitled to receive benefits under this Plan after the death of a Member, except that a designated beneficiary must be a natural person in order to receive a defined benefit.

(m) **"Direct Rollover"** means a payment from one Eligible Retirement Plan to another Eligible Retirement Plan as specified by the Distributee.

(n) **"Disability"** means a Member has been found by the Board of Directors to be eligible for disability benefits as a result of such Member's becoming totally disabled or occupationally disabled as provided under and defined in C.R.S. § 31-31-801(3), (3.2) and (4).

(o) **“Distributee”** includes a Member or former Member, as well as the Member's or former Member's surviving Spouse, Partner in a Civil Union, or former Spouse or former Partner in a Civil Union who is an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). Effective January 1, 2007, a Distributee also includes a nonspouse beneficiary who is a designated beneficiary as defined by Code Section 401(a)(9)(E). However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.

(p) **“Effective Date”** means the effective date of coverage by an Employer under the Defined Benefit System and selected Plan, as approved by the Board. The Employer may establish a separate and distinct “Effective Date for New Hires”, which shall be a date after the filing of the certification of compliance and prior to the Effective Date, on and after which all Members hired shall participate in the plan designated by the Employer for new hires.

(q) **“Eligible Retirement Plan”** means any program defined in Code Sections 401(a)(31) and 402(c)(8)(B), that accepts the Distributee's Eligible Rollover Distribution, as follows:

(1) An individual retirement account under Code Section 408(a);

(2) An individual retirement annuity under Code Section 408(b) (other than an endowment contract);

(3) A qualified trust;

(4) An annuity plan under Code Section 403(a);

(5) An eligible deferred compensation plan under Code Section 457(b) which is maintained by an eligible Employer under Code Section 457(e)(1)(A) (so long as the plan agrees to separately account for amounts rolled into the plan);

(6) An annuity contract under Code Section 403(b); and

(7) Effective January 1, 2008, a Roth IRA under Code Section 408A.

(r) **“Eligible Rollover Distribution”** means any distribution from an Eligible Retirement Plan under all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

(1) 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 ten (10) years or more;

(2) any distribution to the extent such distribution is required under Code Section 401(a)(9); or

(3) the portion of any distribution that is not includible in gross income, provided that any portion of any distribution that is not includible in gross income may be an Eligible Rollover Distribution for purposes of a rollover either (i) to a traditional individual retirement account or individual retirement annuity under Code Sections 408(a) or 408(b), (ii) on or after January 1, 2008, to a Roth IRA under Code Section 408A, or (iii) if a direct rollover that the receiving plan agrees to separately account, including the taxable and non-taxable portions of the direct rollover, to a qualified trust which is part of a defined contribution plan under Code Section 401(a), or on or after January 1, 2007, a qualified trust which is part of a defined benefit plan under Code Section 401(a) or an annuity contract described in Code Section 403(b).

(s) **"Employer"** has the meaning set forth in C.R.S. § 31-31-102(3).

(t) **"Employer Account"** means the account maintained for a Member as part of the MP Component to which mandatory Employer contributions to the Statewide Hybrid Plan are credited.

(u) **"Employer Transfer Account"** means the account maintained for a Member as part of the MP Component to which non-vested Employer contributions, earnings and adjustments that are transferred by the Employer or the Member from the Statewide Money Purchase Plan or from a Local Money Purchase Plan are credited. Members entering the Statewide Hybrid Plan on or after September 24, 2009, will be fully vested in the Employer Transfer Account upon entry into the Plan.

(v) **"Employer Voluntary Account"** means the account maintained for a Member, as part of the MP Component to which voluntary Employer contributions to the Statewide Hybrid Plan are credited.

(w) **"Expenses"** means the administrative, legal, investment, banking and consulting fees and expenses of the Plan.

(x) **"Forfeiture"** means the portion of a Member's Employer Account, Employer Transfer Account, and Employer Voluntary Account, which is forfeited because of a termination of employment prior to full vesting.

(x)(1) **"Forms"** includes but is not limited to photocopies, printed forms, web forms, and any forms described in the FPPA Rules and Regulations and plan documents.

(y) **"FPPA"** means the Fire and Police Pension Association, a corporate body and political subdivision of the State of Colorado, created pursuant to C.R.S. § 31-31-201.

(z) **"HEART"** means the Heroes Earnings and Assistance Relief Tax Act of 2008.

(aa) **"<u>Highest Average Salary</u>"** means the average of the Member's highest three (3) calendar years' actual salary on which contributions were paid. The calendar years' actual salary is based on the employer reported payroll period end date. If the employer changes payroll frequency resulting in a substantial reduction in the amount of salary paid in a given year, an adjustment may be made to account for the Member's salary in the year it was earned when calculating the average of a Member's highest three years' base salary. The year in which a Member retires may be considered in calculating the average of the Member's highest three (3) years' base salary if the Member retired on or after July 1. In that event, FPPA will annualize the last year's salary by comparing total pay periods for the year to total pay periods actually paid. If a Member retires on or before June 30 of any given year, the Member's salary for that year shall not be considered for purposes of calculating the average of the Member's highest three (3) years' salary. If a Member purchased service credit within the last three (3) years of service, the attributed salaries calculated by using the actuarial data in the service credit calculator for the periods of service credit purchase may also be used in calculating the average of a Member's highest three (3) years' base salary. When a Member has less than 3 years of service credit, but is vested through a combination of service credits from the Statewide Defined Benefit Plan and the Statewide Hybrid Plan, the Highest Annual Salary for periods of service that are less than three (3) years shall be calculated using the average salary paid for the period calculated on an annualized basis.

(bb) **"<u>Hours of Service</u>"** means each hour for which a Member is:

(1) Directly or indirectly paid, or entitled to payment, by an Employer for the performance of duties;

(2) Directly or indirectly paid, or entitled to payment, by an Employer on account of a period during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military service or Authorized Leave of Absence; provided, however, that no more than 500 Hours of Service shall be credited with respect to any single continuous period during which no duties are performed; and

(3) Entitled to back pay (irrespective to mitigation of damages) which is awarded, or agreed to, by an Employer on behalf of a Member.

Hours of Service under (1) shall be credited to a Member for the period in which the duties are performed, and Hours of Service under (2) and (3) shall be credited for the period to which they relate, but there shall be no duplication of Hours of Service credited.

(cc) **"<u>Inactive Member</u>"** means a Member whose employment with the Employer has terminated but who has (i) a vested Account balance or (ii) an accrued defined benefit under the Defined Benefit System.

(dd) **"<u>Investment Option</u>"** means an investment option selected and monitored by the Board and Plan Administrator for Accounts, subject to the provisions of C.R.S. § 31-31-1102(2)(a).

(ee) **“<u>Local Money Purchase Plan</u>”** means a money purchase plan established pursuant to Part 6 of C.R.S. 31-31 or to C.R.S. 31-30.5.

(ff) **“<u>Member</u>”** means an active employee who is a full-time salaried employee of a municipality, fire protection district, fire authority, or county improvement district normally serving at least one thousand six hundred (1600) hours in any calendar year and whose duties are directly involved with the provision of police or fire protection, as certified by the Member's Employer.

(1) “Member” also includes an active employee who works less than sixteen hundred (1600) hours per year but otherwise qualifies as a Member and whose Employer elects to treat all such other similar employees as Members.

(2) The term does not include any volunteer firefighter, as such term is defined in C.R.S. § 31-30-1102(9).

(3) For the purpose of participation in the Statewide Hybrid Plan but not for the purpose of participation in the statewide death and disability plan pursuant to C.R.S. § 31-31-801, *et seq.*, the term may include clerical or other personnel employed by a fire protection district, fire authority, or county improvement district, whose services are auxiliary to fire protection.

(gg) **“<u>Member Account</u>”** means the account maintained for a Member as part of the MP Component to which mandatory Member contributions to the Statewide Hybrid Plan are credited.

(hh) **“<u>Member DB Contributions</u>”** means Member contributions that have been allocated to the DB Component under Article IV and includes amounts that have been contributed, transferred, or rolled over to the DB Component for the purchase or restoration of service under Article IX.

(ii) **“<u>Member Rollover Account</u>”** means the account maintained for a Member as part of the MP Component to which any Eligible Rollover Distributions from an Eligible Retirement Plan are credited.

(jj) **“<u>Member Transfer Account</u>”** means the account maintained for a Member as part of the MP Component to which all one-hundred percent (100%) vested amounts transferred by the Employer or the Member from the Statewide Money Purchase Plan or a Local Money Purchase Plan are credited.

(kk) **“<u>Member Voluntary Account</u>”** means the account maintained for a Member as part of the MP Component to which voluntary Member contributions to the Statewide Hybrid Plan are credited.

(ll) **“<u>MP Component</u>”** is the individual account money purchase arrangement in the Statewide Hybrid Plan.

(mm) **“<u>Normal Retirement Age</u>”** means age fifty-five (55) with 25 years of active service.

(mm)(1) “**<u>Partner in a Civil Union” or “Party to a Civil Union</u>”** means a person who has established a civil union pursuant to § 14-15-101, et seq., C.R.S. A partner in a civil union or a party to a civil union is included in any definition or use of the terms “dependent”, “family”, “heir”, “spouse”, and any other term that denotes the familial or spousal relationship, as those terms are used throughout Colorado Revised Statutes, Title 31, Articles 30, 30.5 & 31, including Member Approved Plan Amendments, and of the Plan Documents and Rules and Regulations adopted thereunder.

(nn) **“<u>Plan</u>”** in the singular refers to either the Statewide Hybrid Plan or to the Statewide Defined Benefit Plan as the context requires; in the plural, the term refers to both the Statewide Hybrid Plan and the Statewide Defined Benefit Plan.

(oo) **“<u>Plan Administrator</u>”** means the FPPA and includes any entity to which the Board or FPPA has delegated duties under the Defined Benefit System. The term includes a Recordkeeper if one is appointed by the FPPA or the Board.

(pp) **“<u>Plan Year</u>”** means the calendar year.

(qq) **“<u>Recordkeeper</u>”** means the individual or entity appointed by the FPPA or Board to perform third-party service and administrative functions.

(rr) **“<u>Resolution</u>”** means a Resolution adopted by the Employer in accordance with the requirements of C.R.S. § 31-31-1101(2), as amended.

(ss) **“<u>Spouse</u>”** means the individual to whom a Participant is married or has established a civil union as determined under Colorado law.

(tt) **“<u>State</u>”** means the State of Colorado.

(uu) **“<u>Statewide Defined Benefit Plan</u>”** means the Fire and Police Pension Association of Colorado Statewide Defined Benefit Plan.

(vv) **“<u>Statewide Hybrid Plan Document</u>”** means the document adopted by the Board pursuant to C.R.S. § 31-31-1102(2)(b).

(ww) **“<u>Statewide Hybrid Plan</u>”** means the Fire and Police Pension Association of Colorado Statewide Hybrid Plan established pursuant to C.R.S. § 31-31-1102, as described in the Statewide Hybrid Plan Document, as initially adopted and as subsequently amended and as interpreted by these Rules and Regulations. This Statewide Hybrid Plan is comprised of two (2) components: the DB Component and the MP Component.

(xx) **“<u>Statewide Money Purchase Plan</u>”** means the Fire and Police Pension Association of Colorado Statewide Money Purchase Plan established by an Employer pursuant to Part 5 of C.R.S. 31-31.

(xx.1) **“ Total Pay and Service Method”** – means the Member’s retirement benefit is calculated using the total service (service from the original retirement plus credited service since the Member’s return to work) and the Highest Average Salary (HAS) from the entire employment history.

(yy) **“Trust Fund”** means all assets of the Defined Benefit System, including both Plans. The Trust Fund is held as a separate trust within the Fire and Police Members' Benefit Fund.

(zz) **“USERRA”** means the Uniformed Services Employment and Reemployment Rights Act.

(aaa) **“Year of Service in the MP Component”** means a twelve-month (12-month) period commencing on the Member's hire date and ending one year later in which a Member completes sixteen hundred (1600) Hours of Service.

(bbb) **“Year of Service Credit”** means a twelve-month (12-month) period, and can include a fractional period based upon one month, that measures a Member's term of service for the DB Component.

1.02. Rules of Construction. Words used herein in the masculine or feminine gender shall be construed to include the feminine or masculine gender where appropriate and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

1.03. Guidance. The Plan Administrator may use as guidance in the interpretation of these Rules and Regulations and the Statewide Hybrid Plan Document the rules, regulations, practices, and procedures applicable to the Statewide Defined Benefit Plan and the Statewide Money Purchase Plan.

ARTICLE II - EMPLOYER PARTICIPATION

2.01. Applicability. This Article applies to both Plans.

2.02. Application and Adoption of Resolution. An Employer who has established a Local Money Purchase Plan or who has withdrawn into the Statewide Money Purchase Plan may apply to the Board to (i) cover the Employer's Members of its Local Money Purchase Plan or the Statewide Money Purchase Plan in the Defined Benefit System and to (ii) select a Plan within the System for the Employer's Members. Coverage by the Employer shall be accomplished pursuant to C.R.S. § 31-31-1101 and pursuant to rules and procedures promulgated thereunder.

(a) Any Employer desiring to cover the Members of its money purchase plan under the Defined Benefit System shall file a Resolution with FPPA, adopted by the governing body of the Employer, stating the Employer's intent to cover the Members of its money purchase plan under the Defined Benefit System. The Resolution shall also contain the following:

(1) A request for the Effective Date of coverage, which shall be the first day of a payroll period, otherwise known as the payroll period beginning date.

(2) The Member and the Employer contribution rates proposed under the selected Plan.

(3) The Employer's election as to whether to offer Members the option of participating in the Statewide Defined Benefit Plan.

(4) The Employer's election to cover the Members hired after the Effective Date under either the Statewide Hybrid Plan or the Statewide Defined Benefit Plan. The Employer may designate a date prior to the Effective Date and subsequent to the date of filing the Certification on which to begin covering newly hired Members under the Statewide Hybrid Plan or the Statewide Defined Benefit Plan.

(5) A statement as to the Employer's intent to transfer the active and retired Members' account balances to the MP Component of the Statewide Hybrid Plan.

(6) A statement that the balances in the Member's employer account are one hundred percent (100%) vested upon transfer.

(7) An acknowledgement that election for coverage under the Defined Benefit System is irrevocable.

(8) For a fire district, fire authority, or county improvement district, a statement as to whether clerical and other support personnel shall participate in the Plan.

(b) The Resolution must be filed with FPPA no less than nine (9) months prior to the proposed Effective Date, unless a shorter waiting period is requested and approved by the Board.

(c) The Employer shall prepare a disclosure statement which compares the main provisions of its money purchase plan and the Defined Benefit System and the selected Plan or Plans, as applicable. The disclosure statement shall be submitted to FPPA for its approval. Once approved, the Employer shall hand deliver or mail a copy of the disclosure statement to each Member eligible to vote in the election at least ten (10) days prior to the date the Employer has set for the Member election under subparagraph (d) or the date the Employer has set for the Members to elect the option to participate in the defined benefit system under subparagraph (e).

(d) All Members who are employed on the date or dates of the election and are participating in the money purchase plan are eligible to vote. Those hired less than ten (10) days prior to the commencement of the election shall be personally handed a disclosure statement by

the Employer on the date of their employment. If an Employer has more than one (1) money purchase plan, a separate election must be held with respect to each plan.

(e) All Members voting in the election shall sign a register of voters at the time they receive their ballots.

(f) At the election, all Members shall vote by secret ballot. The ballot shall contain the following statement: *I have read and I understand the disclosure statement, and I vote for the following plan*. The ballot shall then contain the applicable options. A sample ballot shall be approved by FPPA prior to the election. Subject to approval of the procedure by FPPA, an Employer may allow Members to vote by absentee ballots.

(g) After all of those eligible to vote have had an opportunity to cast their ballots, the election shall be closed, but in no event shall the election be conducted during more than five (5) consecutive days.

(h) After the election, the Employer shall deliver the following to FPPA:

(1) A list of Members eligible to vote, showing their dates of employment;

(2) The register of voters;

(3) The sealed ballots; and

(4) A certification by an officer of the Employer that the disclosure statement was properly served to all eligible Members, and that the election was conducted fairly.

(i) FPPA shall count the ballots in the presence of designated representatives of the Employer. If both police officers and firefighters are voting on the coverage, the ballots of each group shall be counted separately.

(j) If the above procedures have been completed and if sixty-five percent (65%) of the ~~Members eligible to~~eligible ~~vote~~ Members who vote in each voting group approve coverage under the Defined Benefit System and applicable Plan(s), such coverage shall be considered approved, subject to compliance with the other requirements of this Article and of the Statewide Hybrid Plan Document created pursuant to C.R.S. § 31-31-1102. All active local plan Members and all of the employees hired on or after the Effective Date that meet the definition of a Member shall be included in the Employer's application for coverage under the defined benefit system.

(k) In lieu of an election to obtain the approval by at least sixty-five percent (65%) of ~~all active~~the Members who vote as required in subsection (d), and when the local plan allows for the individual self-direction of each individual member's account, the Employer may offer each active local plan Member the option to discontinue participation in the local money purchase plan and to participate in the defined benefit system or to remain in the local money purchase plan.

(1) The offer shall be a one-time event and shall be extended to all active local plan Members employed by the Employer at the time of the offer.

(2) The Employer shall follow the procedures established by FPPA in allowing each active Member to elect his or her option.

(3) Active local plan Members that choose to discontinue participation in the local money purchase plan and to participate in the Defined Benefit System and all of the employees hired on or after the Effective Date that meet the definition of a Member shall be included in the Employer's application for coverage under the defined benefit system.

(4) Nothing contained in paragraph (e) of this subsection shall be construed to waive or invalidate the requirement for an election of Members that may be required by a local plan document, trust agreement, or labor agreement. Such an election shall be conducted locally pursuant to the requirements established by the local plan.

(l) At least thirty (30) days prior to the proposed Effective Date of coverage under the Defined Benefit System, the Employer shall file with FPPA the certification required by C.R.S. § 31-31-1101(5) or (6). The chief executive officer may accept the certification on behalf of the Board.

(m) On the Effective Date of coverage under the Defined Benefit System or on such date as mutually agreed upon by the Employer and FPPA, the Employer, if it has so elected, shall transfer the assets, or such portion of the assets of members electing under subsection (e) above, of its Local Money Purchase Plan to FPPA, together with such records regarding the benefits of retired Members and accounts of active and Inactive Members, as FPPA may require in order to properly commence covering the Members under the System.

2.03. No Opt-Out. An Employer who is permitted by the Board to participate in the Defined Benefit System shall not be permitted to opt out of the System or either Plan at any later date.

2.04. Contents of Application: Local Money Purchase Plan. The application for coverage under the Defined Benefit System filed by an Employer who administers a Local Money Purchase Plan shall include the Employer's certification to the Board:

(a) That the Employer's Local Money Purchase Plan meets the qualification requirements of Code Section 401(a);

(b) That, in connection with the Employer's Resolution, the Employer's governing body has adopted a Resolution to either (i) freeze or (ii) completely or partially terminate the Local Money Purchase Plan in accordance with the terms of that plan. If the Employer resolves to completely or partially terminate the plan, the Employer must provide that:

(1) The termination Resolution does not adversely affect the qualified status of the Local Money Purchase Plan; and

(2) The rights of all Members in the Local Money Purchase Plan who are affected by the termination of the Local Money Purchase Plan to benefits accrued to the date of termination are nonforfeitable;

(c) That all active Members in the Local Money Purchase Plan who are included in the Employer's application for coverage under the Defined Benefit System as of the Effective Date shall become Members in the Defined Benefit System, as provided in Article III;

(d) Whether the Employer will transfer or cause to be transferred to the Defined Benefit System all or a portion of the assets of the Local Money Purchase Plan that are attributable to the accrued benefits of the transferred Members, pursuant to the procedure established by the Board;

(e) That all Employer and employee contributions required to be made to the Local Money Purchase Plan as of the date of termination or freeze have been paid;

(f) That Members in the Local Money Purchase Plan shall not incur a reduction in their account balances in their Local Money Purchase Plan, determined as of the Effective Date, as a result of their transfer to the Defined Benefit System. For vesting purposes with regard to the Local Money Purchase Plan account balances and with regard to the MP Component of the Defined Benefit System, years of service in the Local Money Purchase Plan shall be combined with Years of Service in the MP Component of the Defined Benefit System. For vesting purposes with regard to the DB component of the Defined Benefit System, Years of Service Credit shall be based upon service credit either earned or purchased while in the Defined Benefit System.

(g) That the Employer agrees to participate in the Defined Benefit System and to be bound by the terms of the Defined Benefit System and the decisions and actions of the Board with respect to the Defined Benefit System.

2.05. Contents of Application: Statewide Money Purchase Plan. An application for coverage under the Defined Benefit System filed by an Employer who participates in the Statewide Money Purchase Plan shall include the Employer's certification to the Board:

(a) That all active Members in the Statewide Money Purchase Plan as of the Effective shall become Members in the Defined Benefit System, as provided in Article III;

(b) That the Board is authorized by the Employer to transfer to the Defined Benefit System all assets of the Statewide Money Purchase Plan that are attributable to the accrued benefits of the transferred Members;

(c) That the Employer is terminating its participation in the Statewide Money Purchase Plan;

(d) That all Employer and employee contributions required to be made to the Statewide Money Purchase Plan as of the date of termination have been paid;

(e) That Members in the Statewide Money Purchase Plan shall not incur a reduction in their account balances in the Statewide Money Purchase Plan, determined as of the date of transfer, as a result of their transfer to the Defined Benefit System. For vesting purposes with regard to the Statewide Money Purchase Plan account balances and with regard to the MP Component of the Defined Benefit System, years of service in the Statewide Money Purchase Plan shall be combined with Years of Service in the MP Component of the Defined Benefit System. For vesting purposes with regard to the DB Component of the Defined Benefit System, Years of Service Credit shall be based upon service credit either earned or purchased while in the Defined Benefit System.

(f) That the Employer agrees to participate in the Defined Benefit System and to be bound by the terms of the Defined Benefit System and the decisions and actions of the Board with respect to the Defined Benefit System.

2.06. Employer Obligations. Each Employer is required to (i) remit contributions on a timely basis pursuant to Article IV and Article V, (ii) provide and/or distribute any reports, information, or notices as required by the Plan Administrator, and (iii) comply with all requirement of the Defined Benefit System. An Employer shall not be liable for losses arising from expense charges of any kind or from depreciation or shrinkage in the value of investments made under the Defined Benefit System, except as losses, depreciation or shrinkage may be funded through required Employer contributions as established pursuant to Article IV.

ARTICLE III - MEMBER PARTICIPATION

3.01. Applicability. This Article applies to both Plans.

3.02. Membership and Eligibility Requirements. Except as otherwise provided in this Article, a Member whose Employer has adopted the Defined Benefit System shall participate in the System and Employer-selected Plan on the first day of employment, provided that (i) the Employer withholds Member contributions on behalf of the Member and (ii) the Applicable Forms are completed and submitted to the Plan Administrator.

3.03. Active Member Election.

Members of an Employer who were hired prior to and are active on their Employer's Effective Date for New Hires shall make an election to participate (i) in only the MP Component of the Statewide Hybrid Plan, (ii) in both the MP Component and DB Component of the Statewide Hybrid Plan, or (iii) in the Statewide Defined Benefit Plan. If the Member's Employer has so provided said Member may choose to participate in the Statewide Defined Benefit Plan at the rate established by the Board. Such election shall be irrevocable by the Member and shall be made prior to their Employer's Effective Date. If no election is made, the Member shall be deemed to have elected to participate in only the MP Component of the Statewide Hybrid Plan. Following the Employer's Effective Date and notwithstanding the irrevocability of the election, the Board, in its discretion, may allow Members who initially elected participation in only the MP Component to have a subsequent opportunity to choose to participate in either both the MP

Component and the DB Component of the Statewide Hybrid Plan or alternatively the Statewide Defined Benefit Plan during a certain designated period subject to the terms and conditions established by the Board. A Member who is on leave with or without pay shall be treated as an active Member for purposes of this Section. A Member who is on military leave at the time of the deadline for the individual pension system or pension plan election and who does not make a timely election shall have 90 days from the date he or she returns to work with the employer to elect the pension system or pension plan under the FPPA Defined Benefit System, whichever is applicable.

3.04. **Members Hired after the Effective Date.** For Members hired after the Effective Date for New Hires, the minimum contribution rate shall be sixteen percent (16%) of pay, as established by Colorado statute for participation in the Statewide Hybrid Plan or in the Statewide Defined Benefit Plan.

3.05. **Clerical and Other Personnel.** Clerical or other personnel employed by a fire protection district, fire authority, or county improvement district, whose services are auxiliary to fire protection may participate in the Statewide Hybrid Plan at the election of the Participating Employer upon the Employer filing a Resolution with the Board, if they otherwise meet the definition of Member.

3.06. Repealed September 27, 2012.

3.07. **Department Chief Election**. Notwithstanding Sections 3.01 and 3.02, the following apply to department chiefs:

(a) –**Repealed**

(b) –**Repealed**

(c) If a department chief is hired by an Employer after the date the Hybrid Plan Document is adopted by the board, within 180 days of his or her appointment as permanent department chief, he or she may elect (i) to be exempted pursuant to C.R.S. § 31-31-401(4)(a) or (ii) to participate in any Plan of the Defined Benefit System. If the department chief makes no election, the department chief shall be a Member of the Defined Benefit System and the Plan selected by his or her Employer.

(d) If a department chief is promoted from within a department after the date the Hybrid Plan Document is adopted by the Board and participates in the Hybrid Plan defined benefit component, within 180 days of his or her appointment as permanent department chief, he or she may elect (i) to be exempted pursuant to C.R.S. § 31-31-401(4)(a) or (ii) to participate in any Plan of the Defined Benefit System. If the department chief makes no election, the department chief shall continue membership in his or her current plan. Eligibility for an election for an exemption under C.R.S. §31-31-401(4)(a) shall be effective beginning at the time of promotion. If a department chief is promoted from within a department and previously elected to participate in only the MP Component, no further election is available.

3.08. **Reemployment.** Any Member who terminates employment prior to an Employer's Effective Date and is thereafter reemployed by an Employer that has covered its

Members in the Defined Benefit System and the selected Plan shall participate in the Defined Benefit System and the selected Plan as a new Member according to the election made by the Employer as to participation by Members hired after the Effective Date. Such reemployed Member is not entitled to make the election provided in Section 3.03.

3.09. Retirees and Inactive Members.

(a) If an Employer has provided in the Resolution that it intends to transfer all account balances to the Defined Benefit System, the transferred balances of retired and Inactive Members, as well as active Members, shall be transferred to the MP Component of the appropriate accounts. Retired Members and Inactive Members shall participate only in the MP Component, and only if they are one hundred percent (100%) vested in their account balances.

(b) The pension benefit payments shall be suspended for a retired Plan Member who returns to active full time service with an employer covered by the plan. Upon the Member's subsequent separation from service, the pension benefits shall be recalculated to include any additional service credit earned, and the payments shall resume. No changes in payment options shall be allowed.

3.10. USERRA and HEART.

(a) A Member who returns to active employment pursuant to USERRA shall have the same elections under Section 3.03 as an active Member on the Effective Date of coverage.

(b) Effective with respect to deaths occurring on or after January 1, 2007, while a Member is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Code Section 401(a)(37), survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(c) Beginning January 1, 2009, to the extent required by Code Sections 3401(h) and 414(u)(2), an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in chapter 43 of title 38, United States Code) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Code Section 415(c). The differential pay received by Members during any leave of absence, by itself, is not pensionable. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(d) A Member must be on a leave to perform qualified military service (as defined in Chapter 43 of Title 38, United States Code) for a minimum of 30 days before a Member is allowed to take an early distribution of voluntary member contributions from the MP Component as provided by the HEART Act.

ARTICLE IV - CONTRIBUTIONS TO THE HYBRID PLAN

4.01. **Applicability of this Article**. This Article applies only to contributions to the Statewide Hybrid Plan. Contributions to the Statewide Defined Benefit Plan are covered by Article V.

4.02. **Contributions**. Contributions shall be made to the Statewide Hybrid Plan in accordance with this Article and subject to the limitations under Article VIII.

4.03. **Employer Contributions**. Every Employer shall contribute to the Fund eight percent (8%) of the Base Salary of the Member.

4.04. **Mandatory Member Contributions**. Every Member shall contribute to the Trust Fund eight percent (8%) of the Base Salary of the Member. The payment shall be made by the Employer by deduction from the salary paid to the Member.

4.05. **Picked-Up Contributions**. Each Employer shall pick up the employee contributions required under Section 4.04, and the contributions so picked up shall be treated as Employer contributions pursuant to Code Section 414(h)(2) in determining the income tax treatment. The Employer shall pay these employee contributions directly to the Plan Administrator, instead of paying such amounts to the Members. Such contributions shall be paid from the same funds that are used in paying salaries to the Members. Such contributions, although designated as employee contributions, shall be paid by the Employer in lieu of contributions by the Members. Members may not elect to choose to receive such contributions directly instead of having them paid by the Employer to the Plan. Employee contributions so picked up shall be treated for all purposes of this article, other than federal tax, in the same manner as employee contributions made before the date picked up.

4.06. **Increased Mandatory Contribution**.

(a) An Employer or active Member or both may be required to pay a mandatory contribution rate in excess of sixteen percent (16%) upon enactment by the Employer of a Resolution or ordinance setting forth the higher contribution rate and approval of the higher rate by at least sixty-five percent (65%) of the Employer's active Members who vote for the higher contribution rate, subject to the limitations under Article VIII.

(b) An Employee who has previously established a mandatory contribution rate under a Local Money Purchase Plan or the Statewide Money Purchase Plan in excess of sixteen percent (16%) may continue the previous contribution rate as an increased contribution rate.

(c) Upon adoption of a Resolution or ordinance, and approval of at least sixty-five percent (65%) of the Employer's active Members who vote for the higher contribution rate, a mandatory contribution rate in excess of sixteen percent (16%) may be reduced to sixteen percent (16%) or the excess above sixteen percent (16%) may be redirected to another use in purchasing other benefits.

4.07. Voluntary Contributions.

(a) Active Members may make additional after-tax contributions to the Fund. The voluntary contributions shall be credited to the Member Voluntary Account in the MP Component, pursuant to C.R.S. § 31-31-1102(4)(b)(II) and are subject to the limitations in Article VIII. Voluntary Member contributions are not subject to the Employer pick-up provisions of Code Section 414(h)(2).

(b) Employers may make additional contributions to the Fund on behalf of Members. The voluntary contributions shall be credited to the Employer Voluntary Account in the MP Component, pursuant to C.R.S. § 31-31-1102(4)(b)(II) and subject to Article VIII. Employer voluntary contributions shall vest on the same schedule as established for the MP Component.

(c) Any voluntary contributions from a Member on military leave must be ceased for 6 months following an early withdrawal by a Member who is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code).

4.08. Payment of Contributions. The contributions for each payroll period shall be transmitted to the Plan Administrator no later than ten (10) days following the date of payment of salary to the Member, unless the salary is paid more than once monthly, in which event such payments are due no later than the tenth (10th) day of the month following the month the salary is paid to the Member, as required by C.R.S. § 31-31-1102(4)(a), and any rules adopted thereunder. The Board shall establish policies and procedures for the remittance, collection, and deposit of contributions. An interest charge of one-half of one percent (1/2%) per month may be levied against any unpaid amount and added to the Employer payments required under this Article.

4.09. Delinquent Contributions. It is the Employer's responsibility to correctly calculate and remit the contributions as set forth in this Article, pursuant to C.R.S. § 31-31-1102(4)(a) or (b)(I). The Plan Administrator reserves the right to give notice to the highest elected official, the designated representative of the Employer, and/or the Members of the delinquent Employer in the event it comes to the Plan Administrator's attention that contributions are not being remitted in a timely manner. Neither the Board nor the Plan Administrator has any liability for the delinquency of an Employer. FPPA's Executive Director, Chief Operations Officer (COO), and the Chief Benefits Officer (CBO), may waive the interest charge on delinquent contributions mandated by §31-31-402(4), C.R.S., as amended, where he or she finds the amount to be de minimis, or for good cause.

4.10. Crediting of Contributions.

(a) The Board shall determine on an annual basis the allocation of mandatory contributions between the MP Component and the DB Component in the Fund. The allocation to the DB Component shall be based upon the rate of contribution necessary to fund the liabilities for defined benefits based on an actuarial study. The excess, if any, between the sixteen percent (16%) contribution rate and the rate necessary to fund the defined benefits from the DB Component shall be deposited in the Member Account in the MP Component. Amortization of the defined benefit liability over a forty (40) year period shall be deemed adequate to maintain actuarial stability. Mandatory Employer contributions shall go towards the defined benefit cost

in the DB Component, and Member contributions shall be used toward the defined benefit cost to the extent required to pay for the benefit. Excess contributions shall be placed in the Members' Accounts. Voluntary Member contributions and Voluntary Employer contributions shall be credited to the appropriate Member Accounts in the MP Component.

(b) As of the Effective Date, the Board has determined pursuant to Section 4.10(a) that the mandatory sixteen percent (16%) contributions shall be allocated as follows for Members participating in both the DB and MP Components:

(1) 14% to the DB Component; and

(2) 2% to the Member Account in the MP Component.

(c) For Members participating only in the MP Component, all Member and Employer contributions shall be directed to the Members' Accounts in the MP Component, to be credited to the appropriate accounts.

ARTICLE V - CONTRIBUTIONS TO THE STATEWIDE DEFINED BENEFIT PLAN

5.01. Applicability. This Article applies only to the Statewide Defined Benefit Plan.

5.02. Employer and Employee Election. If the Employer has provided in the Resolution that a Member may elect the Statewide Defined Benefit Plan at a contribution rate established by the Board, the Employee may make such election pursuant to the Resolution and this Article. In the Resolution, the Employer shall specify how much of the required rate of contribution is to be paid by the Employer and how much shall be made by the Member. However, the Employer and the Member shall each contribute at least eight percent (8%).

5.03. Picked-Up Contributions. Each Employer shall pick up the Member contributions required under Section 5.02, and the contributions so picked up shall be treated as Employer contributions pursuant to Code Section 414(h)(2) in determining the income tax treatment. The Employer shall pay these Member contributions directly to the Plan Administrator, instead of paying such amounts to the Members. Such contributions shall be paid from the same funds that are used in paying salaries to the Members. Such contributions, although designated as employee contributions, shall be paid by the Employer in lieu of contributions by the Members. Members may not elect to choose to receive such contributions directly instead of having them paid by the Employer to the Plan. Employee contributions so picked up shall be treated for all purposes of this article, other than federal tax, in the same manner as employee contributions made before the date picked up.

5.04. Payment of Contributions. The contributions for each payroll period shall be transmitted to the Plan Administrator no later than ten (10) days following the date of payment of salary to the Member, unless the salary is paid more than once monthly, in which event such payments are due no later than the tenth (10th) day of the month following the month the salary is paid to the Member, as required by C.R.S. § 31-31-1102(4)(a), and any rules adopted thereunder. The Board shall establish policies and procedures for the remittance, collection, and deposit of contributions. An interest charge of one-half of one percent (1/2%) per month may be levied

against any unpaid amount and added to the Employer payments required under this Article. The interest charge may be waived for good cause.

5.05. Delinquent Contributions. It is the Employer's responsibility to correctly calculate and remit the contributions as set forth in this Article, pursuant to C.R.S. § 31-31-1102(4)(a) or (b)(I). The Plan Administrator reserves the right to give notice to the highest elected official, the designated representative of the Employer, and/or the Members of the delinquent Employer in the event it comes to the Plan Administrator's attention that contributions are not being remitted in a timely manner. Neither the Board nor the Plan Administrator has any liability for the delinquency of an Employer.

ARTICLE VI - DEFINED BENEFITS FROM THE HYBRID PLAN

6.01. Applicability. This Article applies only to Members of the Statewide Hybrid Plan. Except as provided in Section 6.02, the defined benefits of Members covered by the Statewide Defined Benefit Plan are governed by the plan documents for that Plan.

6.02. Normal Retirement.

(a) Any Member who has earned at least twenty-five (25) Years of Service Credit and has attained Normal Retirement Age shall be eligible for a normal retirement pension. The annual normal retirement pension is one and one-half percent (1.5%) of the Member's Highest Average Salary times Years of Service Credit, which shall be paid for the life of the Member, with no Designated Beneficiary benefits.

(b) In calculating the normal retirement pension for a Member who has Years of Service Credit in both Plans, the benefit shall be the sum of the following:

(1) 1.5% X Years of Service Credit in Hybrid Plan X Highest Average Salary in Hybrid Plan; plus

(2) 2% X Years of Service Credit in the Statewide Defined Benefit Plan (not to exceed 10 Years of Service Credit) X Highest Average Salary in the Statewide Defined Benefit Plan; plus

(3) 2.5% X Years of Service Credit in the Statewide Defined Benefit Plan (Years of Service Credit in excess of 10 in the Statewide Defined Benefit Plan) X Highest Average Salary in the Statewide Defined Benefit Plan.

6.03. Deferred Retirement.

(a) Any Member retiring and eligible for a normal retirement benefit or a vested retirement benefit may elect to defer receipt of such pension until as late as the time at which the Member attains the age of sixty-five (65) years. In the case of such an election, the monthly deferred retirement pension shall be the actuarial equivalent of the normal retirement pension.

(b) In the event that a Member who has selected a Deferred Retirement dies prior to the commencement of the Member's benefit payments, the Plan Administrator shall pay survivor benefits to the Member's Designated Beneficiary, payable beginning on the date on which the benefits were deferred by the Member or shall pay an actuarial equivalent monthly amount beginning on such other date as the survivor elects payment to begin. The survivor benefits shall be calculated as if the Member had selected Option 1 as set forth in Statewide Hybrid Plan Rule 6.06. In the event that the Member's Designated Beneficiary dies prior to the date of deferment, the Plan Administrator shall refund the Member's Defined Benefit Contributions to the Designated Beneficiary's estate plus 5% interest. In the event there is no designated beneficiary, the Member's contributions plus 5% interest shall be paid to the Member's estate.

6.04. Early Retirement. Any Member who has completed at least thirty (30) Years of Service Credit or has attained the age of fifty (50) years and who is not receiving benefits pursuant to the Statewide Death and Disability Plan may elect to retire from active service and shall be eligible for an early retirement pension. The annual early retirement pension for the Member shall be the benefit, as determined by the Board, that the Member would have received at normal retirement reduced on an Actuarially Equivalent basis to reflect the early receipt of the benefit.

6.05. Vested Retirement.

(a) An Inactive Member who has at least five (5) Years of Service Credit may leave contributions in the Fund. When the Inactive Member attains age fifty-five (55), the Member shall be eligible to receive an annual vested benefit equal to one and one-half percent (1.5%) of the Member's Highest Average Salary times Years of Service Credit in the Hybrid Plan. However, if an Inactive Member has Years of Service Credit in both Plans, the benefit shall be calculated as provided in Section 6.02(b).

(b) Any such Member shall be eligible to receive the applicable vested retirement as provided in this section or to make an election for a reduced pension in the manner provided in Section 6.06. All the provisions of Section 6.06 apply to the Member, except that the benefits used to calculate the reduced benefits shall be the vested benefit provided to the Member under this Section. The Member may not elect one of the options earlier than sixty (60) days prior to the commencement of the vested benefit payments.

(c) In the event that an Inactive Member who is eligible for vested benefits dies prior to the commencement of the Member's benefit payments, the Plan Administrator shall pay the greater of either (i) refund the inactive Member's DB Contributions to the Member's estate; or (ii) provide survivor benefits to the Member's Designated Beneficiary, payable when the Member would have been eligible to receive a vested benefit under this Section. The survivor benefits shall be calculated as if the Member had selected Option 1 as set forth in Section 6.06. If the Member's Designated Beneficiary dies prior to the time the Member would have been eligible to receive a vested benefit under this Section, the Plan Administrator shall refund the Inactive Member's DB Contributions to the Designated Beneficiary's estate.

(d) In the event that an active Member, who is eligible for vested benefits, but not a normal or early retirement, and for whom no survivor benefits are paid under the Statewide

Death and Disability Plan, dies, the Plan Administrator shall pay the greater of either (i) refund the Inactive Member's DB Contributions to the Member's Designated Beneficiary; or (ii) provide survivor benefits to the Member's Designated Beneficiary, payable when the Member would have been eligible to receive a vested benefit. The Designated Beneficiary's election shall be conclusive as to which benefit is deemed greater. The survivor benefits shall be calculated as if the Member had selected Option 1 as set forth in Section 6.06. If the Member's Designated Beneficiary dies prior to the time the Member would have been eligible to receive a vested benefit under this Section, the Plan Administrator shall refund the active Member's DB Contributions to the Designated Beneficiary's estate.

6.05.01. Initial Benefit Calculation. Benefits will be calculated at the time of retirement based on current contribution information in the FPPA records. FPPA will recalculate the benefit once final contributions are received from the Employers and will make any necessary adjustments.

6.06. Benefit Options.

(a) A Member eligible for a normal, deferred or early retirement pension may elect to receive one (1) of the following pension options in lieu of a pension calculated in accordance with Sections 6.02, 6.03, 6.04, and 6.05:

(1) Option 1. A reduced pension payable to the Member and upon the Member's death, all of such reduced pension to be paid to the Member's Designated Beneficiary for life.

(2) Option 2. A reduced pension payable to the Member and upon the Member's death, one-half of such reduced pension to be paid to the Member's Designated Beneficiary for life.

(3) Option 3. A reduced pension payable jointly to the Member and the Member's Designated Beneficiary and, upon the death of either, one-half of such reduced pension to be paid to the survivor for life.

(4) Option 4. A reduced pension payable to the Member and upon the Member's death, all of such reduced pension to be paid to the Member's Designated Beneficiary for life; provided, however, that if the Member's Designated Beneficiary predeceases the Member, the Member's base pension shall increase to the amount computed in accordance with Sections 6.02 through 6.05, effective the first day of the month next following the date of death of the Member's Designated Beneficiary. The Member is not permitted to name a new Designated Beneficiary for the purpose of recalculating the pension. The Member may name a new Designated Beneficiary for the purpose of a refund of unused Member contributions.

(5) Option 5. A reduced pension payable to the Member and upon the Member's death, one-half (1/2) of such reduced pension to be paid

to the Member's Designated Beneficiary for life; provided, however, that if the Member's Designated Beneficiary predeceases the Member, the Member's base pension shall increase to the amount computed in accordance with Sections 6.02 through 6.05, effective the first day of the month next following the date of death of the Member's Designated Beneficiary. The Member is not permitted to name a new Designated Beneficiary for the purpose of recalculating the pension. The Member may name a new Designated Beneficiary for the purpose of a refund of unused Member contributions.

(b) A Member shall be considered to have elected Option 1 and retired on the day before the Member's death if the Member is eligible for a normal retirement and dies:

(1) Before making an election as provided in subsection (a) of this Section;

(2) Before the first pension payment has been deposited or otherwise negotiated or sixty (60) days from the date of issuance of such check, whichever occurs first; and

(3) Is survived by a Spouse, Partner in a Civil Union, a dependent child, or a Designated Beneficiary.

(c) A Member shall be considered to have elected Option 1 and retired on the day before the Member's death if the Member is eligible for an early retirement and dies:

(1) Before making an election as provided in subsection (a) of this Section;

(2) Before the first pension payment has been deposited or otherwise negotiated or sixty (60) days from the date of issuance of such check, whichever occurs first; and

(3) Is not survived by a Spouse, Partner in a Civil Union or a dependent child but does have a Designated Beneficiary.

(d) After an election has been made of any of the options provided in subsection (a) of this Section and the first pension payment has been deposited or otherwise negotiated by the Member, or sixty (60) days from the date of issuance of the check have elapsed, whichever occurs first, the election shall be irrevocable. The Member's Designated Beneficiary designation shall also be irrevocable at such time unless the Member's marital or civil union status changes as the result of dissolution of marriage or civil union, death of a Designated Beneficiary, marriage or entry into a civil union, or remarriage or reentry into a civil union. In the event of the death of a Designated Beneficiary, the Member may designate a new Designated Beneficiary. Notwithstanding the foregoing, an unmarried Member who also is not a Partner in a Civil Union who is receiving a single life annuity and whose marital or civil union status changes as the result of marriage or remarriage, civil union or reentry into a civil union may elect one of the

options provided in subsection (a) of this Section, within one hundred and eighty days of the date of the marriage or remarriage, civil union or reentry into a civil union; provided, however, if such a Member revokes his or her prior election and chooses a different payment option, and the Member subsequently dies during the first six (6) months following the Member's marriage or entry into a civil union, the only survivor benefit payable to the Member's Designated Beneficiary shall be the difference between the single life option amount payable to the Member prior to marriage or entry into a civil union and the amount of the reduced benefit that was actually paid to the deceased Member during the period after the Member's marriage or remarriage, entry or reentry into a civil union and prior to the Member's death.

(e) The joint pension benefits provided by this Section shall be calculated as the Actuarial Equivalent of the normal, deferred, vested, or early retirement pension otherwise payable under this Article. In the event of a change in Designated Beneficiary designation pursuant to subsection (d) of this Section, the joint pension benefits payable shall be recalculated so as to be the Actuarial Equivalent of the remainder of the original pension benefits based upon the Member's initial Designated Beneficiary designation, if any. In the event of a change in option elected pursuant to subsection (d) of this Section, the joint pension benefits payable shall be recalculated so as to be the Actuarial Equivalent of the remainder of the original pension benefits plus eligible cost of living adjustments payable to the Member immediately prior to the change in option.

(f) If the Member designates a new beneficiary, the reduced benefit calculated under the payment option originally selected shall be recalculated using the life expectancy of both the Member and his or her newly designated beneficiary.

(g) If a Member applies for retirement, and subsequently fails to elect a payment option within ninety (90) days of the issuance of the description of benefits under each option, he or she shall be deemed to have elected a deferred payment under Section 6.03. If a Member has applied for retirement, reached age 65, entered DROP, and has named an eligible beneficiary on the retirement application, but has failed to elect a payment option within 90 days of the issuance of a description of benefits, the Member shall be considered to have elected Option 1 as provided by §31-31-403(5)(a)(I), C.R.S. If the Member does not name an eligible beneficiary on the retirement application, the Member shall be considered to have elected the Normal payment option.

(h) If the Member elects Option 1 or Option 4 and designates a non-spouse beneficiary, the number of years between the Member's age at retirement and age 70 is subtracted from the age difference between the Member and his or her non-spouse beneficiary, If this difference is 10 years or greater, the non-spouse beneficiary's benefit is reduced in accordance with the table in Treas. Reg. § 1.401(a)(9)-6, Q & A-2(c).

6.07. **Minimum Benefit**. If the total amount of pension benefits paid as provided in this Article is less than the amount of the Member's DB Contributions at the time of death, the difference shall be paid, along with five (5) percent interest on the total amount, to:

(a) The Member's estate, if no pension payment was made pursuant to an option under Section 6.06; or

(b) The survivor's estate, if pension payments were made pursuant to an option under Section 6.06.

6.08. Aggregation of Service. If the Member has not taken a refund of contributions from the Statewide Defined Benefit Plan or the DB Component of the Statewide Hybrid Plan, all Years of Service Credit of a Member who is employed by successive Employers shall be aggregated for determining eligibility for benefits provided by this Article if the service for each Employer was rendered while the Employer covered its Members under the Defined Benefit System.

6.09. Restoration of Service. (a) If a Member has received a refund of contributions from the DB Component of the Statewide Hybrid Plan or from the Statewide Defined Benefit Plan, no service shall be credited for that period of time covered by the refunded contributions unless:

(1) The former Member returns to service as an active Member with an Employer that covers Members under the Statewide Hybrid Plan; and

(2) The former Member returns the entire amount of his or her refunded contributions and interest, plus additional interest accrued from the date of the refund to the date of return of the refund of contributions at the rate set by the Board to the Plan Administrator within twelve (12) months after returning to such service; or the former Member pays the actuarial cost of the service credit to be reinstated as established by the Plan's actuary in the event the refunded contributions are not returned to FPPA within 12 months of the Member returning to service.

(3) For the restoration of service credit, the Plan Administrator shall accept lump sum payments from the Member, eligible rollover distributions, and trustee-to-trustee transfers under Code Section 457(e)(17) and Code Section 403(b)(13).

(4) Any maternity or paternity leave of up to one (1) year in duration shall not be included in calculating the applicable period for returning the refund of contributions. In this regard, the Plan Administrator may require the Member to furnish proof that the absence was due to pregnancy of the Member, the birth of the Member's child, the adoption of a child, and the care of that child immediately following such birth or adoption.

(5) If the Member fails to return such refunded contributions and interest, the Member shall be treated as a new Member, and the Member's prior service shall not be recognized in determining pension eligibility or pension benefits.

(b) Based upon information submitted by a Member applying for normal retirement benefits, the Plan Administrator shall compile a list of all former Employers of the Member, and those Employers shall verify the Member's employment and shall certify the Member's service. If an Employer cannot verify a Member's employment and/or cannot certify a Member's service, the Plan Administrator shall contact the Member for additional information.

(c) A Member's service is that total period of eligible employment, minus lost service as specified in subsection (e) to the nearest one-twelfth (1/12) year.

(d) In order to accrue service credit for a particular pay period, a Member must work or be paid on a full-time basis for at least 50% of the pay period. If a Member takes a leave of absence without pay, or is suspended without pay, a Member shall not receive service credit for any pay period in which the Member does not work or is not paid at least 50% of the normal schedule for the period. Credit for such a pay period shall be considered lost service, except as provided in this Section. A Member returning from an authorized leave of absence will receive service credit for any period of lost service attributable to his or her leave not exceeding five (5) years upon the Plan Administrator's receipt of the amount of Member and Employer contributions that would have been paid to the Trust Fund if the Member had remained in active service. Except when a Member is returning to service from a military leave, any such funds must be paid to the Plan Administrator within twelve (12) months of the Member's return to service. In the case of a military Leave of Absence, any such funds must be paid to FPPA within a period of time of up to one year when the leave period is 3 months or less, and a maximum of 5 years after the Member’s return to service from the Member’s last military leave of absence when the leave period is greater than 3 months. Under federal law, the Employer is required to match contributions made by the Member. The differential pay received by Members during any leave of absence, by itself, is not pensionable.

(e) The above subsections of this Section shall also apply for the purposes of calculating the benefits of a Member who takes an authorized leave of absence pursuant to the provisions of the Family and Medical Leave Act or USERRA. However, a Member on a family medical leave of absence or a military leave of absence covered by USERRA shall not lose service credit for the purpose of determining eligibility for vesting and retirement benefits. Further, a Member on a military leave of absence covered by USERRA shall not lose service credit for benefit purposes, assuming Member and employer contributions for the period of the leave are remitted to the Trust Fund in accordance with the provisions of USERRA.

(f) The Plan Administrator shall delete ineligible prior service from a Member's retirement benefit, as set forth in this Section, but shall inform the Member of such deletions.

6.10. Deferred Retirement Option Plan (“DROP”).

(a) This Section is applicable to Members who participate in DB Component of the Statewide Hybrid Plan and who elect to participate in DROP. A Member is eligible to elect to participate in DROP only if the Member meets one of the following criteria:

(1) The Member is eligible for normal retirement in accordance with Section 6.02.

(2) The Member is eligible for vested retirement in accordance with Section 6.05.

(3) The Member is eligible for early retirement in accordance with Section 6.04.

(b) The purpose of DROP is to allow an eligible Member to elect, in lieu of immediate termination of employment and receipt of a service retirement benefit, to continue employment for a specified period of time and to have the Member's otherwise deductible employee contribution and retirement benefits paid into the DROP account until the end of such specified period of the Member's participation, at which time employment is to cease. A DROP participant must choose a single life annuity or one (1) of the retirement options provided in section 6.06 at the time the Member elects to participate in DROP.

(c) An eligible Member may participate in DROP only once.

(d) The duration of a Member's participation in DROP shall not exceed a total of five (5) years. As a condition precedent to participation in DROP, the Member shall execute an irrevocable agreement with his or her Employer in the form prescribed by the Board, which form shall, among other items, clearly and unequivocally state that the Member must retire no later than the fifth (5th) anniversary of the Member's participation in DROP, and the Member shall also acknowledge that no disbursement of any DROP funds can occur absent the retirement or death of the Member. The Employer shall provide a copy of such agreement to the Board.

(e) If a Member's participation in DROP is interrupted by military service, reduction in work force, or job related disability, then, upon reestablishment of Membership and provided that the Member has not received any distribution from his or her DROP account, the Member shall be immediately eligible for resumption of participation in DROP for the balance of the five (5) year maximum. Other than the above-described types of interruptions of participation, the five (5) year period shall continue to run in all other cases.

(f) Upon commencement of the Member's participation in DROP, the Member shall remain an active Member. Nevertheless, the Member shall earn no additional service credit or additional benefits under the Plan.

(g) Upon commencement of the Member's participation in DROP, the retirement benefits provided and all of the Member contributions shall be paid into the Member's DROP account. In no case shall the Employer contribution be used to fund DROP.

(h) Each Member's DROP Account shall be subject to self-direction. Within the Trust Fund there is hereby created the fire and police members' self-directed investments fund that shall consist of assets equal to the DROP Accounts. However, the DROP assets shall be held in trust for investment purposes as part of the Trust Fund.

(1) The Board may allow a Member to exercise control of the investment of part or all of the Member's accrued benefit under the DROP Account. A Member who exercises control over the plan assets in the Member's account shall not be deemed a fiduciary of

the fund by reason of such exercise of control, and neither the Board nor the FPPA shall be liable for any loss that results from such exercise of control.

(2) In allowing a Member to exercise such control, the Board shall:

(A) Select at least three (3) investment alternatives, each of which is diversified in itself, that allow the Member a broad range of investments and a meaningful choice between risk and return in the investment of the Member's accrued benefit;

(B) Allow the Member to change investments at least once each calendar quarter; and

(C) Provide the Member with information describing the investment alternatives, the nature, investment performance, fees, and expenses of investment alternatives, and other information to enable a Member to make informed investment decisions.

(i) The Board is authorized to charge each account a fee for the administration of DROP. However, the DROP account shall not be subject to any other fees or charge of any kind for any purpose.

(j) A DROP participant who terminates employment or reaches the five (5) year limit for participation shall become a retiree and shall receive, at the retiree's option, a lump sum payment from the retiree's individual DROP account equal to its balance plus net investment earnings and losses, or equal monthly installment payments from the retiree's individual DROP account over a period not to exceed the retiree's life expectancy or the joint life expectancies of the retiree and the retiree's Designated Beneficiary. At the end of the installment period, a final disbursement of remaining funds in the DROP account shall be made. If no selection is made by the retiree, payment shall be made in compliance with Article XII.

(k) If a Member dies during the period of DROP participation and the Member's Designated Beneficiary is the Member's surviving Spouse or Partner in a Civil Union to whom the Member was legally married or with whom a Member has established a Civil Union at the time of the Member's death, the Member's Designated Beneficiary shall receive, at the Designated Beneficiary's option, a lump sum payment from the retiree's individual DROP account equal to its balance plus net investment earnings and losses, or equal monthly installment payments from the retiree's individual DROP account over a period not to exceed the Spouse's or Partner in a Civil Union’s life or life expectancy. If no selection is made by the Designated Beneficiary, payment shall be made in compliance with Article XII.

(l) If a Member dies during the period of DROP participation and the Member's Designated Beneficiary is someone other than the Member's surviving Spouse or Partner in a Civil Union to whom the Member was legally married or with whom a Member has established a Civil Union at the time of the Member's death, the Member's Designated Beneficiary shall

receive a lump sum payment equal to the Member's individual DROP account balance plus net investment earnings or losses.

(m) If a Member dies during the period of DROP participation and the Designated Beneficiary has not survived the Member, the Member's estate shall receive a lump sum payment equal to the Member's individual DROP account balance plus net investment earnings or losses.

(n) As an alternative to subsection (j), a Member shall be entitled to elect one (1) of the following distribution methods by executing the Applicable Form:

(1) Deferral of any payment(s) from the account until a specified date. If a deferral of payment(s) is selected, the DROP participant shall select one of the following distribution methods. However, all distributions must be in compliance with Article XII.

(2) A lump sum distribution of the entire account balance.

(3) Periodic monthly payments with a designated amount until the balance of the DROP account has been entirely distributed.

(4) Periodic monthly payments for a designated period of years. The Plan Administrator shall calculate the dollar amount of the participant's period payment, so that the entire balance in the participant's DROP account shall have been distributed to the participant by the end of the period selected by the participant. This amount shall be periodically recalculated by the Plan Administrator.

(5) Initial minimum required distribution. The Plan Administrator shall calculate the dollar amount of the participant's periodic payment based upon the participant's current DROP account balance. The minimum distribution is based on the participant's life expectancy (and the life expectancy of his or her Designated Beneficiary, if applicable).

(6) Combination of a lump sum and periodic payments by designating an initial lump sum payment of a specified amount and a balance to be paid in a specified number of monthly payments of a specified dollar amount until the balance of the DROP account has been entirely distributed to the participant.

(7) Conversion to a monthly lifetime benefit pursuant to Section 11.06. A partial lump sum distribution may also be combined with a conversion to a monthly lifetime benefit.

(o) The minimum distribution amount is recalculated by the Plan Administrator on the basis of the life expectancy of the participant and the participant's Designated Beneficiary, if applicable. If elected in writing before the required beginning date by the participant and/or the participant's Spouse or Partner in a Civil Union, if applicable, the life expectancy of the

participant and/or the participant's Spouse or Partner in a Civil Union shall be recalculated periodically.

(p) If the retiree does not select a distribution method, benefit payments shall be made in compliance with applicable federal law regarding minimum distributions.

(q) If the Member dies during the DROP participation period and the Member's Designated Beneficiary is the Member's surviving Spouse or Partner in a Civil Union to whom the Member was legally married or with whom a Member has established a civil union at the time of the Member's death, the Member's Designated Beneficiary shall be entitled to select one (1) of the distribution methods set forth in subsection (n). If no selection is made by the Member's surviving Spouse or Partner in a Civil Union, payment shall be made in compliance with Article XII.

(r) If a retiree or surviving Spouse or Partner in a Civil Union chooses a distribution method involving periodic payments, he or she may make a change in the payment method as may be allowed by the Plan Administrator.

6.11. Adjustment of Benefits.

(a) The benefits payable under the DB Component shall be redetermined effective October 1 of each year, and such redetermined amount shall be payable for the following twelve (12) months. To be eligible for redetermination, such benefits must have been paid for at least twelve (12) calendar months prior to the effective date of redetermination. The annual redetermination of benefits made pursuant to this Section shall be in lieu of any other cost of living adjustment.

(b) The redetermination of benefits payable under subsection (a) of this Section shall be computed as follows: the amount of the benefit on the effective date of the benefit shall be increased by a percentage to be determined by the Board, but not more than three percent (3%) of the prior year's benefit. In no event shall the benefit be decreased.

(c) The cost of the adjustment of benefits provided by this section shall be funded in the same manner as other defined benefits established by the Plan.

6.12. Refund of Contributions. A Member who terminates employment with an Employer may withdraw from the Plan and request a refund of all the Member's DB Contributions.

6.13. Processing Refunds. A refund shall be processed within one hundred twenty (120) days after the Plan Administrator has received a completed Request for Refund of Contributions Form, all supporting documentation, and the final contribution. A Member requesting a refund must sign a statement to be filed with the Member's Employer evidencing such election and acknowledging that the Member has no rights to benefits provided by the DB Component. A Member shall only be eligible for a refund of the Member's contributions, including amounts that were transferred or rolled over to the DB Component for the purchase of Years of Service Credit, the restoration of service, and the purchase of monthly benefits. If the

contribution amount to be refunded is $1000 or less, the refund may be processed without applicant's signature notarized.

6.14. Alternative to Refunds. Unless a refund of contributions has been elected, a Member who has at least five (5) Years of Service Credit shall leave his or her Member DB Contributions with the Fund and elect a vested retirement benefit. The Member may elect a vested retirement at any time following the date upon which the Member terminated his or her employment but shall begin distribution no later than the Member's 65th birthday. If a Member has not completed a vested retirement form prior to the Member's 65th birthday, it is presumed that he or she has elected the normal benefit option.

6.15. Refunds of Delinquent Contributions. Refunds of Member DB Contributions shall not be made to any Members of Employers who have failed to remit all contributions required under the provisions of the Statewide Hybrid Plan.

6.16. Reemployment. If a Member terminates his or her employment but, within thirty (30) days of the Member's termination, the Member becomes employed by another Employer and in the Member's new employment is again covered by the Defined Benefit System, his or her Member DB contributions shall remain in the Fund, and the Member shall retain all Years of Service Credit earned with the Member's prior Employer.

6.17. Refund Upon Death In-Service. In the event a Member who is covered by the Plan dies while in active service, the deceased Member's DB Contributions may be refunded to the Member's Designated Beneficiary or, if none, the Member's estate if:

(a) The Member is not eligible for normal retirement benefits;

(b) The Member leaves no surviving Spouse, Partner in a Civil Union and/or dependent children who are eligible for survivor's benefits under the Statewide Death and Disability Plan.

6.18. Refund Upon Death Out-of-Service. If a Member dies after he or she has terminated service, does not have at least five (5) Years of Service Credit and has not yet received a refund, the Plan Administrator shall refund the Member's DB Contributions to the Member's Designated Beneficiary; if no Designated Beneficiary, to the surviving Spouse or Partner in a Civil Union; if no surviving Designated Beneficiary, Spouse, or Partner in a Civil Union, to the dependent children; or, where there is no Designated Beneficiary, surviving Spouse, Partner in a Civil Union, or dependent children, to the deceased Member's estate.

6.19. Calculation of Refund Amount. The amounts that will be refunded under this Article equal the total amount of Member DB Contributions plus five percent (5%) of that total.

6.20. Transfer of Refund to MP Accounts. A Member or the Member's Designated Beneficiary, surviving Spouse or Partner in a Civil Union, or dependent child who is entitled to receive a refund of Member DB Contributions may elect to have that amount credited to the Member Account in the MP Component. Upon such amount being credited, the Member or the Member's Designated Beneficiary, surviving Spouse or Partner in a Civil Union, or dependent

children, as applicable, are treated as having taken a refund from the DB Component for all purposes.

ARTICLE VII - MONEY PURCHASE COMPONENT OF THE HYBRID PLAN

7.01. **Applicability**. This Article applies only to Members of the Statewide Hybrid Plan.

7.02. **Individual Accounts**. With regard to funds held for the MP Component, the Board shall create and maintain adequate records to disclose the interest of each Member, Inactive Member, and Designated Beneficiary of the Plan. Such records shall be in the form of individual accounts, and credits and charges shall be made to such accounts in the manner herein described. A Member shall have multiple separate accounts, namely an Employer Account, a Member Account, an Employer Voluntary Account, a Member Voluntary Account, a Member Transfer Account, an Employer Transfer Account, and a Member Rollover Account(s), as necessary. The maintenance of individual accounts is only for accounting purposes, and a segregation of the assets of the Fund to each account shall not be required. Distribution and withdrawals made from an account shall be charged to the Accounts as of the date payment is made.

7.03. **Account Adjustments**. The Accounts of Members, Inactive Members, Designated Beneficiaries, Surviving Spouse, Partner in a Civil Union, and Dependent Children shall be adjusted in accordance with the following:

(a) The balance of such Accounts shall be adjusted daily to reflect any distribution to the Member and all interest, dividends, account charges, and changes of market value resulting from the investment of the Member's Accounts.

(b) Contributions shall be allocated to each account of each eligible Member not less frequently than monthly, according to the amount that is actually contributed on behalf of each Member.

(c) The costs of administrative services (including record keeping, legal, administrative, etc.) of the MP Component will be covered by forfeitures, penalties received, ~~any revenue credits derived from the investments offered by the Plan,~~ settlement proceeds, and other sources of revenue received. Notwithstanding the foregoing, any revenue credits derived from the investments offered by the Plan may instead be distributed to participants. When the expense of administrative services exceeds the Plan revenue, the administrative expenses of the Plan may be charged to Members on a periodic basis in the form of an asset-based fee, a flat hard dollar fee, or a combination thereof. The FPPA Self-Directed Plans Committee will review the administrative expenses on an annual basis and determine the allocation of administrative costs of the Plan, if any to participants.

In addition to overall administrative expenses, there may be individual service fees associated with optional features offered under the Plan. Individual service fees are charged separately to the accounts of individuals who choose to utilize a particular Plan feature.

7.04. Investments.

(a) The Board may create and is authorized to offer to each Member of the Plan various Investment Options for the Member's Accounts, including at least three (3) alternatives, each of which is diversified in itself, that allow a Member a broad range of investments and a meaningful choice between risk and return in the investment of the Member's Aggregate Account.

(b) One hundred (100%) of each Aggregate Account may be invested as directed by the Member in any one (1) or a combination of the Investment Options. If a Member or Designated Beneficiary does not have a valid investment election on file for any portion of the amount in that Member's Accounts, that portion of the Member's Accounts shall be invested in the Investment Option selected by the Board as the default option(s). In such event, the Member or Designated Beneficiary shall be deemed to have directed that Investment Option for investment of such portion of the Member's Accounts. The Board intends to establish one or more default options based upon various factors, including but not limited to, market risk, stability, and rate of return. If the Board has properly exercised its fiduciary duty in selecting a default option(s), it shall have no liability for any loss sustained by a Member or Designated Beneficiary whose Accounts in whole or in part are invested in the default option(s).

(c) Members may redirect the investment of his or her Aggregate Account at any time and may reallocate monies in existing funds as may be allowed by the Plan Administrator. The Board or Plan Administrator (or its designee) may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions.

(d) Subject to terms and conditions imposed by the Recordkeeper, Members of the SWH Plan – Money Purchase Component may engage a third party investment advisor (Advisor) and may grant the Advisor Limited Trading Authorization on the Member's accounts. An Advisor shall be in the business of providing investment services. A Member may authorize the payment of the Advisor's reasonable fees from the Member's accounts.

7.05. Statements of Accounts to Members. A written report of the status of each Member's Accounts shall be furnished by the Plan Administrator within thirty (30) days after the end of each Plan quarter. All reports to Members shall be based on the fair market value of investments credited to their Accounts as of the reporting dates. Member reports shall be deemed to have been accepted by the Member as correct unless written notice to the contrary is received by the Plan Administrator, as appropriate, within ninety (90) days (or such longer period as determined by the Plan Administrator) after the mailing or distribution of a report to the Member.

7.06. Year End Reports. Within ninety (90) days after the end of each Plan Year, a written report shall be prepared and maintained on file by the Plan Administrator showing the assets held under the Plan, a schedule of all receipts and disbursements, and all material transactions of the Plan during the preceding year. This report shall be in a form and shall contain other information as the Plan Administrator requires. The report shall also contain such information as is necessary to enable the Board to prepare their accounting due under the Trust.

7.07. Valuation. The Plan Administrator (or its designee) shall value the assets in the Accounts each business day based on acceptable industry practices. All daily transactions shall be based on that day's closing market values. The value of the Member's Accounts shall be adjusted in accordance with the daily values.

7.08. Deposits. In all cases, deposits of contributions shall be treated as actually made only as of the date the contributions are accepted as in good order by the Plan Administrator.

ARTICLE VIII - LIMITATIONS ON CONTRIBUTIONS AND BENEFITS

8.01. Applicability.

(a) This Article applies to the Defined Benefit System and both Plans.

(b) Notwithstanding any provision of the System to the contrary, the System shall be administered so as to comply with Code Section 415 as provided in this Article. For purposes of this Article and subject to Code Section 415(h), all defined contribution plans of each Employer covering a Member are to be treated as a single defined contribution plan, and all defined benefit plans covering a Member are to be treated as a single defined benefit plan.

8.02. Limitation on Annual Additions. Notwithstanding anything in the Plan to the contrary, the following limitations shall apply:

(a) To the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Section for a Member for any Plan Year, exceed the lesser of:

(1) Forty Thousand Dollars ($40,000), as adjusted pursuant to the Code, or

(2) One hundred percent (100%) of the "compensation," as defined in this Section, of such Member received during the Plan Year

(b) If the annual addition for a Member under the Plan, determined without regard to the limitation of subsection (a), would have been greater than the annual addition for such Member as limited by subsection (a), then the excess will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

(c) For purposes of this Section, "annual addition" means the annual addition as defined in Code Section 415(c) and as modified in Code Sections 415(l)(1) and 419A(d)(2). In general, Code Section 415(c) defines the annual addition as the sum of the following amounts credited to a Member's Accounts for the limitation year under this Plan and any other defined contribution plan maintained by an Employer:

(1) Employer contributions; and

(2) Employee contributions.

(d) For purposes of this Section, the following types of contributions are not Employer contributions and are not "annual additions:"

(1) Member DB Contributions.

(2) Employer contributions to fund the DB Component.

(3) The restoration of an employee's accrual benefit, or any other restoration, by the Employer in accordance with Code Section 411(a)(3)(D) or Code Section 411(a)(7)(C) will not be considered an annual addition for the limitation year in which the restoration occurs.

(4) The transfer of funds from one qualified plan to another will not be considered an annual addition for the limitation year in which the transfer occurs.

(e) For purposes of this Section, the following types of contributions are not treated as employee contributions and are not "annual additions:"

(1) Rollover contributions.

(2) Repayments of amounts described in Code Section 411(a)(7)(B).

(3) The direct transfer of employee contributions from one qualified plan to another.

(f) Specifically for purposes of this Section, transfers pursuant to Article IX are not treated as Employer or employee contributions and are not "annual additions."

(g) For purposes of applying Code Section 415(c) and for no other purposes, "compensation" means all of a Member'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), and any amount contributed or deferred by the Employer at election of the Employee and which is not includible in the gross income of the Member by reason of Code Section 125, 132(f), or 457. "Compensation" for purposes of this Section shall not include any Member contributions to this Plan picked-up under Code Section 414(h). For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a Member's severance from employment or the end of the limitation year that includes the date of the Member's severance from employment if the payment is regular compensation for services during the Member's regular working hours, or compensation for services outside the Member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the Member while the Member continued in employment with the Employer.

Any payments not described above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

An employee who is in qualified military service (within the meaning of Code Section 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition. For limitation years beginning on or after January 1, 2009, a Member's compensation for purposes of this Section shall not exceed the annual limit under Code Section 401(a)(17).

(h) The 415(c) limit with respect to any Member who at any time has been a Member in any other defined contribution plan as defined in Code Section 414(i) maintained by the Member's employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the Member has been a Member were payable from one plan.

8.03. Limits on Annual Benefit. A Member's annual benefit under the DB Component for a calendar year (the "limitation year") shall not exceed a dollar amount established in Code Section 415(b)(1)(A), which is adjusted for inflation based on Section 215(i)(2)(A) of the Social Security Act. Subject to Code Section 415(b) (4), if a Member's total annual benefit is not in excess of $10,000, this Section will not apply. Furthermore, if the Member retires before age 62 and if the Member is not a qualified Member as defined by Code Section 415(b)(2)(H), the limit shall be actuarially reduced in accordance with Code Section 415(b)(2)(C). If a Member has less than ten years of participation in the DB Component, the dollar amount established in Code Section 415(b)(1)(A) (as may be adjusted) shall be the amount multiplied by a fraction, the numerator of which is the Member's Years of Service Credit earned while participating in the DB Component and the denominator of which is ten.

(a) *Participation in Other Qualified Plans: Aggregation of Limits.* The 415(b) limit with respect to any Member who at any time has been a Member in any other defined benefit plan as defined in Code Section 414(j) maintained by the Member's employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the Member

has been a Member were payable from one plan.

(b) *Adjustments to Basic 415(b) Limitation for Form of Benefit.* For purposes of Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Code Section 415(n)) and to rollover contributions (as defined in Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations. If the benefit under the plan is other than a straight life annuity then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Code Section 417(e)(3) does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the form of benefit to the Member; or

(B) For years on and after January 1, 2009, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62); or

(3) For a benefit paid in a form to which Code Section 417(e)(3) applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Code Section 415(b) limit applicable at the annuity starting date which is the

"least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience; or

(B) For years on and after January 1, 2009, the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1, 2009, using the rate in effect for the month prior to retirement, and on and after January 1, 2009, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62)), divided by 1.05.

(c) *Effect of COLA without a Lump Sum Component on 415(b) Testing*. Effective on and after January 1, 2009, for purposes of applying the limits under Code Section 415(b) (the "Limit") to a Member with no lump sum benefit, the following will apply:

(1) a Member’s applicable Limit will be applied to the Member's annual benefit in the Member's first limitation year without regard to any cost of living adjustments under Section 4.10 of the Plan;

(2) to the extent that the Member's annual benefit equals or exceeds the Limit, the Member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a Member's annual benefit, including any cost of living increases under Section 4.10 of the Plan, shall be tested under the then applicable benefit Limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder.

(d) *Effect of COLA with a Lump Sum Component on 415(b) Testing*. On and after January 1, 2009, with respect to a Member who receives a portion of the Member's annual benefit in a lump sum, a Member's applicable Limit will be applied taking into consideration cost of living increases as required by Code Section 415(b) and applicable Treasury Regulations.

(e) *Service Purchases under Section 415(n).* Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a Member makes one or more contributions to purchase permissive service credit under a plan, then the requirements of Code Section 415(n) will be treated as met only if:

(1) the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b); or

(2) the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

(3) For purposes of applying this paragraph (e), a plan will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this paragraph (e) and will not fail to meet the percentage limitation under Code Section 415(c)(1)(B) solely by reason of this paragraph (e).

(4) For purposes of this paragraph (e) the term "permissive service credit" means service credit—

(A) recognized by a plan for purposes of calculating a Member's benefit under a plan;

(B) which such Member has not received under a plan; and

(C) which such Member may receive only by making a voluntary additional contribution, in an amount determined under a plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for service credit which a Member is receiving under a plan.

(5) The plan will fail to meet the requirements of this paragraph (e) if—

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph (5); or

(B) any nonqualified service credit is taken into account under this subparagraph (5) before the Member has at least five years of participation under a plan.

(6) For purposes of subparagraph (5), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to—

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in Code Section 415(k)(3));

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (A)) of an education organization described in Code Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;

(C) service as an employee of an association of employees who are described in clause (A); or

(D) military service (other than qualified military service under Code Section 414(u)) recognized by the plan.

In the case of service described in clause (A), (B), or (C), such service will be nonqualified service if recognition of such service

would cause a Member to receive a retirement benefit for the same service under more than one plan.

(7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Code Section 403(b)(13)(A) or Code Section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

(A) the limitations of subparagraph (5) will not apply in determining whether the transfer is for the purchase of permissive service credit; and

(B) the distribution rules applicable under federal law to a plan will apply to such amounts and any benefits attributable to such amounts.

(8) For an eligible Member, the limitation of Code Section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a plan as in effect on August 5, 1997. For purposes of this subparagraph (8) an eligible Member is an individual who first became a Member in a plan before January 1, 1998.

(f) *Modification of Contributions for 415(c) and 415(n) Purposes.* Notwithstanding any other provision of law to the contrary, the department may modify a request by a Member to make a contribution under to a plan if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the department may establish a periodic payment plan for the Member to avoid a contribution in excess of the limits under Code Section 415(c) or 415(n).

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Code Section 415(c) or 415(n), the Board may either reduce the Member's contribution to an amount within the limits of those Code Sections or refuse the Member's contribution.

(g) *Repayments of Cashouts.* Any repayment of contributions (including interest thereon) to the plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or another governmental plan maintained by the State or a local government within the State shall not be taken into account for purposes of Code Section 415, in accordance with applicable Treasury Regulations.

8.04. Employer Responsibility for Contribution Limits. The Employer must monitor contributions to the Defined Benefit System on behalf of a Member to either Plan and

any other 401(a) plan maintained by the Employer to determine compliance with this Article. The Employer must cease contributions to avoid exceeding the limits of Section 8.02 and must notify the Plan Administrator if excess annual additions are made.

8.05. Limitation Under Code Section 401(a)(17). Notwithstanding anything contained in these Rules and Regulations, the annual compensation of each Member taken into account in determining allocations or benefits for any Plan Year shall not exceed two hundred thousand dollars ($200,000), as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Annual compensation means compensation during the Plan Year or such other consecutive twelve (12) month period over which compensation is otherwise determined under the plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

ARTICLE IX - TRANSFERS AND SERVICE PURCHASES

9.01. Applicability. This Article applies to both Plans of the Defined Benefit System, except where noted.

9.02. Transfers into the Plan.

(a) A Member who is covered by Section 3.03 may elect a trustee-to-trustee transfer in order to transfer Member's assets from Member's predecessor Local Money Purchase Plan to the Member Transfer Account and the Employer Transfer Account within the MP Component, as applicable. Assets in the Statewide Money Purchase Plan shall be transferred to the appropriate Transfer Account in the MP Component. The Member may also elect to use the vested proceeds from Member's Local Money Purchase Plan or Statewide Money Purchase Plan to purchase additional Years of Service Credit towards the accrual of a defined benefit under the Defined Benefit System.

(b) Subject to any limitations in this Article, a Member may elect, at the time and in the manner prescribed by the Board or the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to the Member's Money Purchase Component after it has been transferred to the Fire and Police Member's Self-Directed Investment Fund in a Direct Rollover. Rollovers from other permissible sources will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Board or its designee deems appropriate.

(c) Such a Member described in subsection (a) whose Employer has not terminated the Local Money Purchase Plan may make the transfers under this Section after the Employer's Effective Date.

(d) Notwithstanding Section 13.02, assets in the form of a loan to a Member may be transferred into the MP Component of the Plan from a local money purchase plan upon the approval of such transfer by the Board. The Board may establish such policies, procedures, and requirements as it deems necessary for the consideration and transfer of such assets and as required to maintain the qualified plan status of the Plan under the Internal Revenue Code.

9.03. Service Purchases.

(a) This Section applies only to the DB Component.

(b) A Member shall be granted service credit upon the qualified plan-to-plan transfer of funds from an Eligible Retirement Plan for other public employment within the United States not covered by the FPPA Defined Benefit System, as may be allowed under rules adopted by the Board, subject to all of the following conditions:

(1) The Member has at least one (1) year of continuous service credit with the same Employer covered by the Plan.

(2) The Member provides documentation that the benefits in the eligible transferor plan were earned based on public employment.

(3) The Member verifies that he or she will not receive a benefit from any retirement plan covering such employment and that the service credit to be granted has not vested with that plan, except to the extent otherwise required by federal law.

(4) The Member pays or transfers to the Fund, at the time and in the manner prescribed by the Board, the cost of the service credit. The member shall be awarded service credit in an amount determined by actuarial calculation.. No such transfer shall be allowed in an amount which would cause the benefit to exceed limits under IRC §415(b)(1)(A).

(5) "Other public employment" shall mean service or employment that is (i) service as an employee of the federal, state, or local government, (ii) service as an employee of a secondary or elementary education organization, or (iii) service as an employee of an association of government employees. Other public employment includes employment for which a Member earned service credit under the Statewide Defined Benefit Plan and for which the Member received a refund of contributions.

(c) A Member may purchase up to five (5) Years of Service Credit for periods of active duty in the uniformed services of the United States, subject to all of the following conditions:

(1) The Member has at least one (1) year of continuous service credit with the same Employer covered by the Defined Benefit System.

(2) The Member provides documentation of the dates of service in the uniformed services of the United States and that the Member was honorably discharged from such service.

(3) The Member provides certification from the Employer that the service is not intervening service covered by the federal "Uniformed Services Employment and Reemployment Rights Act of 1994", chapter 43 of title 38, U.S.C., as amended.

(4) The Member verifies that he or she will not receive a benefit from any retirement plan covering such service and that the service credit to be purchased has not vested with that plan, except to the extent otherwise required by federal law.

(5) 9.03 (c)(5) The Member pays or transfers to the Trust Fund, at the time and in the manner prescribed by the Board, the cost of the service credit purchased, such cost to be calculated by the Board on an actuarially equivalent basis.

(d) A Member may purchase up to five (5) Years of Service Credit, or may be granted up to five (5) Years of Service Credit upon the qualified rollover of distributions from an Eligible Retirement Plan, for employment with any private Employer in the United States, as may be allowed under rules adopted by the Board, subject to all of the following conditions:

(1) The Member has earned at least five (5) years of continuous service credit with the same Employer covered by the Defined Benefit System.

(2) The Member provides documentation of the dates of employment not covered by the System and a record of the salary received.

(3) The Member verifies that he or she will not receive a benefit from any retirement plan covering such employment and that the service credit to be granted has not vested with that plan, except to the extent otherwise required by federal law.

(4) The Member pays or transfers to the Trust Fund, at the time and in the manner prescribed by the Board, the cost of the service credit, such cost to be calculated by the Board on an actuarially equivalent basis.

(5) Employment with a private Employer shall mean "nonqualified service" under Code Section 415(n)(3)(C), which includes any service or employment not meeting the definition of "other public employment" except military service

(e) **Repealed September 27, 2012**

(f) An application to purchase service credit shall be filed with the Plan Administrator on the Applicable Form. The Member has the burden of providing the information and supporting documentation necessary to satisfy the requirements of the Board.

(g) The Member shall purchase service credit by contributing to the Trust Fund, in one lump sum, an amount which is equal to the actuarial cost of such service. No service credit shall be awarded to the Member until the Plan Administrator has approved the request and has received the full contribution of the prescribed amount. In order to receive credit for the service, the Member must complete the contribution no later than the last day of active Membership in the Plan. In order to complete the purchase transaction, FPPA must receive the full amount required within 60 days from the date of the projected receipt of payment or the date that FPPA identifies as the purchase date for affiliating members. If all funds are not received within the 60 day period, FPPA may return the funds received to the source from which they came and cancel the transaction. No earnings or losses shall accrue on funds held by FPPA for service credit purchases. The Chief Benefits Officer may grant an extension to the 60 day funding period upon request with good cause shown.

(h) No service credit may be purchased for:

(1) any period of employment for which the Member is eligible for benefits under another retirement or annuity plan (except Social Security), payable at the time of purchase or in the future;

(2) public or private employment concurrent with full-time FPPA-covered employment;

(3) employment by a foreign government or by any foreign employer; or

(4) any period of employment for which no pay was received.

(i) For purchases of permissive service credit under this Section, the Plan Administrator shall accept eligible rollover distributions and trustee-to-trustee transfers under Code Section 457(e)(17) and Code Section 403(b)(13).

(j) Amounts in the Employer Transfer Account, Member Transfer Account, and the Member Rollover Account in the MP Component may be used to purchase service under this Section.

ARTICLE X - VESTING FOR HYBRID PLAN

10.01. Applicability. This Article applies only to the Statewide Hybrid Plan.

10.02. Vesting Standards for MP Component Accounts.

(a) A Member shall be one hundred percent (100%) vested in the Member Account, the Member Voluntary Account, the Member Transfer Account, and the Member Rollover Account at all times.

(b) Employer contributions that are credited to the Member's Employer Account, the Employer Transfer Account, or the Employer Voluntary Account are subject to the following vesting rules:

(1) In the event of Permanent Occupational or Total Disability retirement (pursuant to C.R.S. § 31-31-803) or death as an active Member, a Member shall be 100% vested in the Member's Employer Account, Employer Transfer Account, and Employer Voluntary Account. Benefits payable under the Statewide Death and Disability plan to a Permanently Occupationally Disabled retiree or to a Totally Disabled Retiree or to a survivor of an active Member shall be reduced by an amount that is the actuarial equivalent of the benefits such Member or survivor of an active Member receives from the MP Component, whether the benefits received from the MP Component are paid on a periodic basis or in a lump sum. No such reduction shall exceed the Actuarial Equivalent of the MP Component benefits calculated as if such benefits had been funded at the rate of sixteen percent (16%) of salary.

(2)(a) A Member shall be 100% vested in the Member's Employer Account, Employer Transfer Account, and Employer Voluntary Account upon and after his or her attaining Normal Retirement Age (if employed by the Employer on or after that date).

(b) **Members entering the Statewide Hybrid Plan on or after September 24. 2009.** Members shall be 100% vested in the Employer Transfer Account and Employer Voluntary Account.

(3) Except as provided in subdivisions (1) and (2), a Member shall be vested in the Member's Employer Account, Employer Transfer Account, and Employer Voluntary Account according to the following schedule. For purposes of this Schedule, Years of Service with the Employer includes Years of Service with the Member's Employer (that initiated coverage under Article II) prior to the Member's participation in the Statewide Hybrid Plan and all Years of Service earned under the MP Component of the Statewide Hybrid Plan for which no distribution has been made.

Employer Accounts Vesting Schedule

Years of Service	Vested Percentage
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%

3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

(4) Upon distribution, the portion of a Member's Employer Account, the Employer Transfer Account, and the Employer Voluntary Account that are not vested shall be treated as a Forfeiture.

(5) Years of Service in the MP Component for purposes of this Section cannot be purchased by the Member or the Employer.

(6) A Member who is restored to active service after a disability ceases to exist will receive credit for Years of Service in the MP Component with the Employer prior to the disability as well as time while out on disability.

(7) A Member, with a balance in the MP Component and who participates in the Statewide Defined Benefit Plan, shall be vested in the Employer Transfer Account according to the schedule in subdivision (3). For purposes of this subdivision, Years of Service with the Employer includes Years of Service with the Member's Employer (that initiated coverage under Article II) prior to the Member's participation in the Statewide Defined Benefit Plan and all Years of Service earned under the Statewide Defined Benefit System for which no distribution has been made. A Member’s concurrent service with more than one FPPA covered employer will not be aggregated for inclusion in Years of Service.

10.03. <u>Vesting Standards for DB Component</u>.

(a) A Member with five (5) Years of Service Credit with an Employer who covers the Member in either Plan is considered vested for purposes of the defined benefit pension payable from each Plan, except that:

(1) A Member who only participates in the MP Component does not receive Years of Service Credit for purposes of the defined benefit pensions; and

(2) If a Member terminates service with the Employer, has earned at least six (6) months of Service Credit within three (3) calendar years, and becomes reemployed with an Employer under the Statewide Defined Benefit Plan, the Member will be 100% vested in the Service Credits earned under the previous employment.

(3) A Member’s concurrent service with more than one FPPA covered employer will not be aggregated for inclusion in Years of Service.

(4) Service credit earned for which a Member has taken a refund of contributions while working for a Statewide Defined Benefit Plan employer cannot be reinstated in the Statewide Hybrid Plan. Members may purchase service credit for that service pursuant to Article IX paragraph 9.03.

(b) Any amounts forfeited shall remain in the Trust Fund. These forfeitures shall not be allocated to any individual account.

ARTICLE XI - DISTRIBUTION OF ACCOUNTS – HYBRID PLAN

11.01. Applicability. This Article applies only to MP Component of the Statewide Hybrid Plan.

11.02. Eligibility for Distribution. A Member's vested Account balance will become eligible for distribution upon the Member's death, Permanent Occupational or Total Disability, normal retirement, or termination of employment.

11.03. Types of Distributions.

(a) Upon becoming eligible for distribution and upon approval of the Plan Administrator, a Member, or the Designated Beneficiary in the event of the death of the Member before distribution of the Member's Account, may elect to receive the balance of the Member's Account in one of the methods authorized by this Article. At that time, the Member shall receive his or her "vested percentage" of the Employer Account, Employer Transfer Account, and Employer Voluntary Account. The funds forfeited by Members who are less than one hundred percent (100%) vested shall constitute Forfeitures and shall be reserved in a forfeiture account to pay the administrative expenses of the Plan. Forfeitures may be carried forward from one plan year to the next for up to five years. After five years, forfeitures not used to pay the administrative expenses of the Plan must be used to reduce the employer's required contributions to the Plan. A Member may elect to defer payment within the parameters of Article XII.

(b) A Member who terminates employment and has withdrawn his or her Member DB Contributions is not required to withdraw Member's Accounts in the MP Component, which shall be maintained as provided in Article VII until the assets of the Accounts are distributed.

11.04. Lump Sum. The Member may choose a lump sum payment of all or a portion of the Member's Accounts.

11.05. Annuity. The Member may elect to have the value of all or a portion of Member's Accounts used to purchase an annuity contract, with a term and in a form as the Member shall elect. If the Member has elected distribution in the form of an annuity, any benefit payable as a result of Member's death shall be determined solely under the terms of the annuity contract.

11.06. Conversion to Monthly Lifetime Benefits. (a) A Member who is eligible for retirement may elect to transfer all or part of Member's Aggregate Account balance within the Statewide Hybrid Plan from the MP Component and/or from Member's account balance within

the DROP to the DB Component to convert to a monthly benefit. Funds may not be transferred from outside the Statewide Hybrid Plan to purchase a monthly benefit. Only a Member may convert these accounts or account balances to a monthly lifetime benefit.

(b) The funds transferred to the DB Component are to be considered Member DB Contributions for purposes of Section 6.07.

(c) At retirement or separation of service, which ever comes later, and if a Member has reached age 50, a Member may make a one-time, irrevocable election to convert all or a portion of the DROP or MP component of the SWH Plan account to a monthly lifetime benefit. The Member must make the irrevocable election within 90 days of retirement or separation of service. The conversion must be in one lump sum, which must be initiated by the member prior to the receipt of benefits from the DB Component. The Member shall designate the entire account balance or a flat dollar amount for conversion.

(d) Once the Member's monthly payment amount is calculated, it will be considered to be a portion of the Member's pension under Sections 6.02, 6.03, 6.04, or 6.05. It may be reduced if the Member elects one of the survivor options offered under Section 6.06 of the Plan.

(e) As part of the pension, the converted monthly benefit may be adjusted pursuant to Section 6.11 of the Plan.

(f) Once the monthly benefit is converted, the Member may not convert back to a lump sum payout.

(g) An application to convert to a monthly lifetime benefit shall be filed by the Member with the Plan Administrator on the Applicable Form. The Member must provide any documentation that is required by the Board to complete the conversion.

11.07. Periodic Payments. The Member may elect to have all or a portion of the Member's Accounts distributed in substantially equal monthly payments over a period not to exceed the joint life expectancy of the Member and his or her Designated Beneficiary (or until the Accounts are exhausted). This maximum period shall be determined under the applicable IRS tables at the time the initial monthly installment payment becomes payable.

11.08. Taxability of Distributions. All distributions will be made in compliance with the Code, including any allowed tax-free payments due to on-duty death or disability status.

11.09. Timing of Distributions. Distributions will not be made until all contributions and allocations have been made to the Member's Accounts and in accordance with the IRS notice and withholding requirements. This period shall not exceed ninety (90) days after receipt of all necessary forms, allocations, and Plan Administrator approval.

11.10. Distributions Upon Death.

(a) For the MP Component, each Member from time to time may designate any person or persons (who may be designated contingently or successively and who may be an entity other than a natural person) as the Member's Designated Beneficiary or beneficiaries to

whom Plan benefits are paid if the Member dies before receipt of all such benefits. Each Designated Beneficiary designation shall be in the form prescribed by the Plan Administrator, and will be effective only when filed with the Plan Administrator during the Member's lifetime. Each Designated Beneficiary designation filed with the Plan Administrator will cancel all Designated Beneficiary designations previously filed with the Plan Administrator.

(b) Upon a Member's death, the Member's Accounts shall be distributed in accordance with Section 12.03.

(c) Upon the death of the Member, the Designated Beneficiary may elect to allocate the investment of the Member's Accounts as provided for in Article VII. If no notice of reallocation is received, the Member's Accounts will remain invested as previously allocated during the Member's lifetime.

11.11. Deferral of Distribution. An Inactive Member may elect to defer receipt of all or part of his or her Account. Such Inactive Member shall receive allocations until the balance of the Inactive Member's Accounts has been distributed. An Inactive Member may make application for distribution of his or her Accounts in accordance with the procedures contained in this Article.

11.12. Claims After Distribution. Upon distribution of all or any part of a Member's Account, the Member or Designated Beneficiary shall have no further claim to benefits from the Plan for that portion of the Member's Account distributed.

11.13. In-Service Plan-to-Plan Transfers. Notwithstanding any other Plan provision, distribution of amounts in a Member's Rollover Account may be transferred prior to a separation from service to an Eligible Retirement Plan within the meaning of Code § 402(c) of which the Member is a Member if the plan receiving such amounts provides for their acceptance.

11.14. Eligible Rollover Distributions From This Plan. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Article, a Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

11.15. Distribution of DeMinimis Accounts. If any Member, beneficiary or alternate payee has an aggregate account balance of $1,000 or less, the Board may distribute the aggregate account balance to the Member, beneficiary or alternate payee without receiving any request for distribution.

ARTICLE XII - MINIMUM DISTRIBUTION RULES

12.01. Applicability. This Article applies to both Plans.

12.02. Minimum Distribution Rules for Members. Notwithstanding any provision of this Plan to the contrary, any distribution under the Plan shall be made in accordance with Code Section 401(a)(9) and the regulations established thereunder as they are amended and shall comply with the following rules:

(a) To the extent required by Code Section 401(a)(9) and the regulations promulgated thereunder, payment of the benefits of a Member shall begin no later than the "required beginning date." For purposes of this Section, "required beginning date" means April 1 of the calendar year following the later of (i) the calendar year in which the Member reaches age seventy and one-half (70½), or (ii) the calendar year in which the Member retires.

(b) No payment option may be selected by a Member unless the amounts payable to the Member are expected to be at least equal to the minimum distribution required under Code Section 401(a)(9).

(c) The amounts payable must satisfy the minimum distribution incidental benefit requirements of Code Section 401(a)(9)(G).

(d) Distributions in the event of a Member's death are subject to the minimum distribution rules of Code Section 401(a)(9) and the regulations thereunder.

12.03. Minimum Distribution Rules for Beneficiaries. In the event of the Member's death, any remaining benefit shall be distributed according to the following subject to compliance with Code Section 401(a)(9) and regulations thereunder.

(a) If the Member had begun receiving periodic payments from the Plan that were not annuitized, the balance of the Accounts shall be paid to the Designated Beneficiary at least as rapidly as under the payment option selected by the Member.

(b) If the Member had begun receiving payments in the form of a pension or annuity, the Designated Beneficiary shall be bound by all restrictions applicable to the pension or annuity, and the form of payment selected thereunder, and remaining payments, if any, shall be paid to the Designated Beneficiary in the same manner.

(c) If the Member dies before distributions have commenced, a Spouse Designated Beneficiary may delay the commencement of benefits until December 31 of the year the Member would have attained age seventy and one-half (70½) and may elect to receive payments at such time over the Spouse's life expectancy, subject to the payment options available.

(d) If the Member dies before distributions have commenced, a Designated Beneficiary other than a surviving Spouse may take a lump sum or a periodic payment, subject to the payment options available. In the case of a lump sum, payment must be made no later than December 31 of the calendar year containing the fifth anniversary of the Member's death. In the case of a periodic distribution, payment must commence no later than December 31 of the year following the year of the Member's death, and in no event be payable over a period longer than the Designated Beneficiary's life expectancy at the time the distribution commences.

(e) If the Member has not designated a Designated Beneficiary or the Plan is unable to locate the Designated Beneficiary upon death, the Member's remaining interest will be paid in a lump sum to the Member's estate or any person claiming to be the successor of the deceased Member who presents an affidavit pursuant to § 15-12-1201, et seq., C.R.S.

(f) Notwithstanding the foregoing, any payment to an estate shall be made in a lump sum.

(g) Unclaimed Accounts or Interests. If the account or interest of any Member remains unclaimed after December 31 of the calendar year containing the fifth anniversary of the Member's death, any remaining account balance, distributions, or other interest of the Member shall revert to the Plan for the purpose of payment of benefits and expenses of the Plan.

ARTICLE XIII - DISTRIBUTIONS THAT ARE NOT ALLOWED AND MEMBERS RETURNING TO ACTIVE SERVICE AFTER RETIREMENT– HYBRID PLAN

13.01. **Applicability**. This Article applies only to the Statewide Hybrid Plan.

13.02. **No Plan Loans**. Loans to Members shall not be permitted.

13.03. **In-service Distributions**. In-service distributions shall not be permitted with the exception of amounts from a Member's Rollover Account which have been transferred as an Eligible Rollover Distribution from another Eligible Retirement Plan.

13.04 **Return to Active Service.** Members returning to active service after retirement shall be subject to the following rules:

(a) A Member who has retired from service under a Normal Retirement within the SWH plan DB component, who has received one or more pension payments, and who returns to work for the same employer for which the Member worked immediately prior to retirement shall become active in the Statewide Money Purchase Plan upon the Member's reemployment unless the Member has previously participated in DROP. The Member's defined benefit payment, including any combined SWDB benefit, shall be suspended during the reemployment period. No deferral of benefits shall accrue for benefit payments not received during the suspension. Adjustments may be made to recoup any over payments of benefits made during the suspension period. Upon the Member's subsequent separation from service following reemployment, the Member's SWH defined benefit shall resume with any benefit adjustments the Member would have received if the Member's retirement benefit had not been suspended due to reemployment. If the Member has previously participated in DROP and returns to work for the same Employer for which the Member worked immediately prior to his or her first retirement date, the Member shall become active in the Statewide Money Purchase Plan upon the Member's reemployment. The defined benefit payments shall be suspended, and no deferral of benefits shall accrue. Adjustments may be made to recoup any over payments of benefits made during the reemployment period. Upon the Member's subsequent separation from service following reemployment, the Member's retirement benefit shall resume with any benefit adjustments the Member would have received if the Member's retirement benefit had not been suspended due to reemployment.

(b) A Member who has retired from service under a Normal Retirement within the SWH Plan DB Component who has received one or more pension payments, and who returns to work for a different employer than for which the member worked immediately prior to retirement shall continue to receive his or her retirement benefit. If the Member's new employer also participates

in the FPPA Defined Benefit System, the Member shall become active in the SWMP plan. Upon the Member's subsequent separation from service, the Member shall be entitled to any benefit accrued based upon the Member's participation in the SWMP Plan. If the Member has previously participated in DROP and returns to work for a different employer than the employer for which the Member worked immediately prior to his or her first retirement date, the defined benefit payments shall continue during the period of reemployment. Upon the Member's subsequent separation from service, the Member shall be entitled to any benefit accrued based upon the Member's participation in the SWMP Plan.

(c) A Member in the FPPA Defined Benefit System who has elected a retirement other than a Normal Retirement or who has a vested defined benefit and who subsequently returns to work for the same employer for which the Member worked immediately prior to retirement shall become active in the plan offered to new hires by the subsequent employer unless the Member has previously participated in DROP. Such a member returning to work for the same employer may be reenrolled in the same plan in which they participated previously, if such reenrollment is not otherwise prohibited under the plan's rules and unless the Member has previously participated in DROP. If the Member has received one or more pension payments under a defined benefit plan in the FPPA Defined Benefit System at the time he or she returns to work, defined benefit payments shall be suspended during the reemployment period and no deferral of benefits shall accrue. If the Member earns additional service credit in a plan in which he or she had previously earned service credit, upon the Member's subsequent separation from service, the Member's original retirement shall be cancelled and the Member's defined benefit shall be recalculated using the Total Pay and Service Method of calculation to include any additional service credit earned, and the payments shall resume. No adjustment to future benefits shall be made for prior retirement payments except to recoup any over payment of benefits made during reemployment. If the Member has earned a defined benefit under more than one plan in the FPPA Defined Benefit System, the member shall receive a pension as provided for under the rules of each of the plans upon separation of service from the subsequent employer. If the Member has previously participated in DROP with the employer, the Member shall participate in the SWMP upon return to work and the defined benefit payments shall be suspended and no deferral of benefits shall accrue. Adjustments may be made to recoup any over payments of benefits made during the reemployment period. Upon the Member's subsequent separation from service following reemployment, the Member's retirement benefit shall resume with any benefit adjustments the Member would have received if the Member's retirement benefit had not been suspended due to reemployment.

(d) A Member in the FPPA Defined Benefit System who has elected a retirement other than a Normal Retirement or who has a vested defined benefit and who subsequently returns to work for an employer participating in the FPPA Defined Benefit System shall become active in the plan offered to new hires by the subsequent employer unless the Member has previously participated in DROP. Such a member returning to work for the same employer may be reenrolled in the same plan in which they participated previously, if such reenrollment is not otherwise prohibited under the plan's rules and unless the Member has previously participated in DROP. If the Member has received one or more pension payments under a defined benefit plan in the FPPA Defined Benefit System at the time he or she returns to work, defined benefit payments shall be suspended during the reemployment period, No deferral of benefits shall

accrue, and no distributions, transfers, or rollovers shall be made from the money purchase component. If the Member earns additional service credit in a plan in which he or she had previously earned service credit, upon the Member's subsequent separation from service, the Member's original retirement shall be cancelled and the Member's defined benefit shall be recalculated using the Total Pay and Service Method of calculation to include any additional service credit earned, and the payments shall resume. No adjustment to future benefits shall be made for prior retirement payments except to recoup any over payment of benefits made during reemployment. If the Member has earned a defined benefit under more than one plan, the member shall receive a pension as provided for under the rules of each of the plans upon separation of service from the subsequent employer.

(e) A Member who has retired from service under a Normal, Early or Vested Retirement within the FPPA Defined Benefit System, who has participated in DROP and who does not terminate service at the end of the DROP period and remains working for the same employer, shall have their DROP participation annulled. The DROP annulment will operate as follows:

(1) The Member's retirement benefit will be determined as if the Member had never entered DROP.

(2) The Member's accumulated DROP account balance, containing monthly benefits and Member contributions including any earnings, and including any balance in an alternate payee's account, is transferred from the Fire & Police Members' Self-Directed Investment Fund to the plan assets contained in the Fire & Police Members' Benefit Investment Fund.

(A) If the Member's accumulated DROP account balance at the time of transfer is less than the amount of monthly benefits transferred to the DROP account and Member contributions made during the DROP period (the DROP Account Contributions), the Member shall be make additional contributions in the amount that is the difference between the DROP Account Contributions and the balance transferred.

(B) The Member shall repay to the plan any amount which has been distributed from the DROP account, including from an alternate payee's account originating from the DROP account.

(C) If full repayment of distributions or the required additional contributions are not made, the Member's monthly benefit upon retirement shall be completely offset until the repayment and contribution obligations are completed.

(3) The Member's accumulated SRA account balance transferred to a third party recordkeeper including any earnings, and including any balance in an alternate payee's account, is transferred from the Fire & Police Members' Self-Directed

Investment Fund to the plan assets contained in the Fire & Police Members' Benefit Investment Fund.

(A) In the event an in-service distribution of SRA or Re-entry SRA funds, including any balance paid to an alternate payee, is made during the DROP period, the Member shall repay to the plan any amount of SRA benefits which would have been subject to reduction prior to the time the member terminated service pursuant to Section 31-31-405(6) CRS had the SRA not been distributed while the member was still active.

(B) The Member's monthly benefit upon retirement shall be completely offset until the repayment obligation is completed.

(4) The Member receives service credit for the DROP participation period in lieu of any DROP benefit. The Member's pension benefit, and any payment to an alternate payee pursuant to a domestic relations order, will subsequently be recalculated at the time the Member terminates service and applies for retirement.

(5) The employer is required to make employer contributions for the DROP period, plus interest at the rate assessed for late contributions. FPPA will calculate projections for the required employer contributions in the event of DROP annulment upon request of the Employer.

(6) The Member does not have another opportunity to enter into the DROP plan.

(7) SRA allocations and Re-entry SRA allocations for contributions required during the DROP period, if any, shall be made upon receipt of the Employer's contributions at the rate of allocation in effect at the time the Employer's contributions are made.

(8) Monthly pension distributions made during the Member's employment, if any, shall be deducted from the Member's benefit distribution at retirement if not previously collected from the Member through a repayment agreement.

The employer must consent to the Member's continued employment after the DROP period.

(f) Distributions made during a Member's reemployment, if any, shall be deducted from the reinstated benefit distribution if not previously collected from the Member through a repayment agreement.

ARTICLE XIV - FAMILY LAW ORDERS – HYBRID PLAN

14.01. **Applicability**. This Article applies only to the Statewide Hybrid Plan.

14.02. **Definitions**. A "domestic relations order" means a judgment, decree or order issued by a court of competent jurisdiction in this state relating to a dissolution of marriage or civil union, legal separation or declaration of invalidity action, which complies with C.R.S. § 14-10-113, as amended.

14.03. **Applicability**. The Board shall recognize only those domestic relations orders which seek to implement a written agreement between a Member of a retirement plan administered by FPPA and the Member's former Spouse or Civil Union Partner. The Board shall approve a standardized form of agreement which must be used by the parties in this regard. The Board shall also approve a standard judicial "order," which incorporates and approves the terms of the written agreement.

14.04. **Domestic Relations Orders for DB Component**. Any written agreement concerning the division of benefits in a retirement plan administered by FPPA shall be submitted to FPPA within ninety (90) days after entry of the decree and the permanent orders regarding property distribution in the proceeding for the dissolution of marriage or civil union, legal separation, or declaration of invalidity of marriage or civil union. The order approving the agreement shall be certified by the clerk of the court and submitted to and received by FPPA at least thirty (30) days before the plan may make its first payment.

(a) Any formula in a written agreement concerning the division of benefits must enable FPPA to make a one-time calculation of the alternate payee's share. Any expenses incurred by FPPA in making the calculation shall be paid by the Member.

(b) FPPA permits (and State law requires) benefit adjustments to the alternate payee's share of a Member's defined benefit at the same time and in the same manner as any benefit adjustments applied to the Member's distribution.

(c)(1) If the Member is active when a court ordered domestic relations order is submitted and approved by the FPPA, the alternate payee's portion of a monthly benefit shall be calculated using the Normal benefit option pursuant to Rule 6.02 prior to any reduction made under a benefit option pursuant to Rule 6.06. If the Member dies prior to the first payment of benefits, no payments shall be due to the alternate payee. In the event the Member predeceases the alternate payee after payments have commenced, the alternate payee's monthly benefit shall terminate upon the Member's death. In the event the alternate payee predeceases the Member, the alternate payee's monthly benefit shall cease, and the amount of the alternate payee's share shall revert and be added to the Member's monthly benefit, subject to any reduction based on benefit options previously elected pursuant to Rule 6.06 by the Member.

(2) If the Member is retired when a court ordered domestic relations order is submitted and approved by the FPPA, the alternate payee's portion of a monthly benefit shall be calculated using the benefit payment after any reduction made under a benefit option under Rule 6.06. If the Member predeceases the alternate payee, the alternate payee's monthly benefit shall

terminate upon the Member's death. In the event the alternate payee predeceases the Member, the alternate payee's monthly benefit shall cease, and the amount of the alternate payee's share shall revert and be added to the Member's monthly benefit.

(3) **Alternate Payee Severed Benefit Option.** If the Member is active and has not entered DROP, when the domestic relations order is submitted and approved by the FPPA, the alternate payee and the Member may designate that the alternate payee receive the actuarial monthly equivalent payment of the alternate payee's portion of the defined benefit under the statewide hybrid plan paid out over the lifetime of the alternate payee. The alternate payee and the Member shall make such designation prior to the first payment of benefits. If the Member dies prior to the first payment of benefits, no payment shall be due to the alternate payee under the severed option. After the benefit payments have begun, if the alternate payee predeceases the Member, the benefit payable to the alternate payee shall terminate and shall not be restored to the Member. In the event that a severed benefit option is designated, and the Member subsequently enters DROP, a separate DROP account shall be established for the alternate payee and the alternate payee's severed portion of the benefit shall be deposited in the alternate payee's DROP account. The alternate payee shall self-direct the investment of the alternate payee's DROP account. The alternate payee shall not take a distribution from the DROP account until the Member has terminated employment.

(d) In recognition of the fact that disability benefits under the Statewide Death and Disability Plan are paid in lieu of defined benefits under the FPPA Defined Benefit System, that disability benefits paid after a divorce but prior to a retirement are not considered marital property under Colorado Law, and that disability benefits paid in lieu of a retirement benefit may be considered marital property subject to division under a domestic relations order under Colorado, the Board adopts the following rules:

(1) If a member retires on a permanent occupational or total disability under the Statewide Death and Disability Plan, receiving the disability benefit in lieu of a defined benefit under the FPPA Defined Benefit System, and has previously filed a domestic relations order prior to the date of disability which requires the division of a disability benefit, the alternate payee shall become eligible for payment of a portion of the disability benefit upon the Member attaining age 55. The alternate payee's portion of the disability benefit shall be calculated pursuant to the division methodology agreed upon pursuant to the domestic relations order. However, the division methodology shall be applied to the normal defined benefit amount that the member would have been eligible to receive at age 55 if the member had separated from service on the date of disability and based on the service credit the member earned in the defined benefit plan, before any reductions for survivor options. The division methodology shall not be applied to the member's disability retirement benefit to calculate the alternate payee's portion of the benefit.

(2) If the Member dies prior to the first payment of benefits, no payments shall be due to the alternate payee. In the event the Member dies before the alternate payee after payments have commenced, the alternate payee's portion of the monthly benefit shall terminate upon the Member's death. In the event the alternate payee dies before the Member, the alternate payee's portion of the monthly benefit shall cease, and the amount of the alternate payee's portion shall

revert and be added to the Member’s monthly benefit, subject to any reduction based on beneficiary options previously elected by the Member.

14.05. **Domestic Relations Orders for MP Component**. Any disbursements made to alternate payees under domestic relations orders shall be made within one hundred-twenty (120) days of receipt of the domestic relations order by FPPA. An alternate payee must withdraw his or her share of all funds from a Member's Accounts either as a fixed lump sum or as a percentage of the Member's Accounts as of a date certain. A distribution to a former Spouse or Partner in a Civil Union pursuant to a domestic relations order is a distribution to the Member for the purposes of C.R.S. § 31-31-804 (2).

ARTICLE XV - ELIGIBLE ROLLOVER DISTRIBUTIONS TO THE HYBRID PLAN

15.01. **Applicability**. This Article applies only to the Statewide Hybrid Plan.

15.02. **Eligible Rollover Distributions to This Plan**. Subject to any limitations in this Article, a Member may elect, at the time and in the manner prescribed by the Board or the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to this Plan in a Direct Rollover. Rollovers from other permissible sources will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Board or its designee deems appropriate. If directed to the MP Component by the Member, an Eligible Rollover Distribution shall be credited to the Member's Rollover Account. If directed to the DB Component by the Member, an Eligible Rollover Contribution shall be credited to the Trust Fund for the purchase of service credit.

ARTICLE XVI - TRUST

16.01. **Applicability**. This Article applies to the Defined Benefit System, including both Plans.

16.02. **Trust Status**. All assets held in connection with the Defined Benefit System, including all contributions to the Plans, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Members and their Designated Beneficiaries under the Plans. Such assets shall constitute the Trust Fund. No part of the assets and income of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and their Designated Beneficiaries and for defraying reasonable expenses of the System.

16.03. **Trust Fund**. All amounts of compensation contributed pursuant to the Plans, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Defined Benefit System, shall be transferred to the Board to be held, managed, invested, and distributed as part of the Trust Fund in accordance with the provisions of the documents governing the System. All contributions to the Plans must be transferred by the Employers to the Trust Fund. The Trust Fund must not revert, and no contributions shall be permitted to be returned, to the Employers, except as permitted by Revenue Ruling 91-4. All benefits under the Plans shall be distributed solely from the Trust Fund pursuant to the documents governing the System.

16.04. **Board as Trustee**. The Board is the trustee of the Trust Fund.

ARTICLE XVII - ADMINISTRATION OF PLAN

17.01. **Applicability**. This Article applies to the Defined Benefit System, including both Plans.

17.02. **Compliance with Code Section 401(a)**. At all times, the Defined Benefit System shall be administered in accordance with and construed to be consistent with Code Section 401(a) and its accompanying regulations, as applicable to governmental plans as defined in Code Section 414(d).

17.03. **USERRA Compliance**. Notwithstanding any provision of these Rules and Regulations to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u), and as required by the USERRA.

17.04. **Board Duties and Powers**. The Board shall have the authority to control and manage the operation and administration of the Defined Benefit System and the Statewide Hybrid Plan, pursuant to C.R.S. § 31-31-1102, and shall be a named fiduciary of the System.

(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 Defined Benefit System. 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 Defined Benefit System, not inconsistent with State law and the Code, and to amend or rescind such rules, regulations, or procedures;

(2) To establish an administrative fee for the Statewide Hybrid Plan, which shall be used to pay reasonable expenses of the Plan and shall be withheld from contributions under Article IV;

(3) To establish an administrative fee for the MP Component, which shall be used to pay reasonable expenses of the Statewide Hybrid Plan for Inactive Members and shall be withheld from the Member's Accounts;

(4) To determine, consistently with the documents governing the Defined Benefit System, applicable law, rules, or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plans and eligibility for distribution of benefits from the Plans, and the status of any person claiming benefits under the Plans, including without limitation, Members, Inactive Members, former Members, Designated Beneficiaries, employees, and former employees;

(5) Pursuant to Articles VI, IX, and XII, to make payments from the Trust Fund to Members, their Designated Beneficiaries, and other persons as the Board may determine;

(6) To contract with one or more service providers and professionals, including attorneys, accountants, actuaries, investment advisors, consultants, and Recordkeepers to advise the Board in any manner necessary and to perform education, recordkeeping, and administrative services under the System;

(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 Plans as to administrative issues and to correct any defect, supply any omission, or reconcile any inconsistency in the Plans with respect to same;

(10) To obtain from the Employer such information as shall be necessary for the proper administration of the System; and

(11) To perform any other duties or exercise any other powers granted under C.R.S. Title 31.

(b) Any action by the Board, which is not found to be an abuse of discretion, shall be final, conclusive, and binding on all individuals affected thereby. The Board may take any such action in such manner and to such extent as the Board in its sole discretion may deem expedient, and the Board shall be the sole and final judge of such expediency.

17.05. Advice. The Board may employ or contract with one (1) or more persons to render advice or consultation services to it with regard to its responsibilities under the Defined Benefit System.

17.06. Delegation by Board. In addition to the powers stated in Section 17.04, the Board may from time to time delegate to an individual, committee, or organization certain of its fiduciary or other responsibilities under the Defined Benefit System. Any such individual, committee, or organization shall remain a fiduciary until such delegation is revoked by the Board, which revocation may be without cause and without advance notice. Such individual, committee, or organization shall have such power and authority with respect to such delegated fiduciary responsibilities as the Board has under the System.

17.07. Fiduciary Insurance. The Board may require the purchase of fiduciary liability insurance for any of such fiduciaries to cover liability or losses occurring by reason of the act or omission of such fiduciary.

17.08. Payment of Benefits. If in doubt as to the correctness of its action in making a payment of a benefit, the Board, Plan Administrator, or Recordkeeper (as appropriate) may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment. In addition, such person or entity may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid or the persons to receive them. Such person or entity shall comply with the final order of the court in any such suit and the Members, Designated Beneficiaries, Employers, Plan Administrator, and Recordkeeper shall be bound thereby insofar as such order affects the benefits payable under the Defined Benefit System or the method or manner of payment.

17.09. Payment of Expenses. Except as otherwise provided in these Rules and Regulations, the costs of administrative services (including record keeping, legal, administrative, etc.) will be covered by forfeitures, penalties received, ~~any revenue credits derived from the investments offered by the plan,~~ settlement proceeds, and other sources of revenue received. Notwithstanding the foregoing, any revenue credits derived from the investments offered by the Plan may instead be distributed to participants. When the expense of administrative services exceeds the plan revenue, the administrative expenses of the plan may be charged to plan participants on a periodic basis in the form of an asset-based fee, a flat hard dollar fee, or a combination thereof. The FPPA Self-Directed Plans Committee will review the administrative expenses on an annual basis and determine the allocation of administrative costs of the plan to participants, if any.

In addition to overall administrative expenses, there may be individual service fees associated with optional features offered under the plan. Individual service fees are charged separately to the accounts of individuals who choose to utilize a particular plan feature.

17.10. Plan Records. All records of the Defined Benefit System, including individual Account information, that are maintained by the Plan Administrator or Recordkeeper shall be the exclusive property of the Board.

ARTICLE XVIII - DISPUTE PROCEDURE – HYBRID PLAN

18.01. Applicability. This Article applies only to the Statewide Hybrid Plan.

18.02. Staff Determination.

(a) When a preliminary determination is made by FPPA staff affecting benefit eligibility, amount or duration of benefits, or an Employer's obligation to enroll Members under the Plan, then the person or entity affected by the determination will be granted an evidentiary hearing by the Board upon request as provided by this Section.

(b) The person or entity affected may file a request for a hearing on staff's determination within thirty (30) days of being notified of the determination. Such hearing shall be held within one hundred twenty (120) days from receipt of the request. For good cause, the person or entity requesting the hearing may have the date of the hearing continued but in no event will the Board permit a continuance of continuances beyond one (1) year from the date of staff's determination.

18.03. Procedure.

(a) At the commencement of the hearing, the presiding officer shall state the reasons for staff's determination, and may, if necessary, call upon FPPA staff and the attorney for FPPA to assist in the explanation.

(b) At the hearing, the staff may present evidence and the Board may call witnesses. The person or entity requesting the hearing then shall present his or her or its evidence, and shall have the burden of proof.

(c) At the conclusion of the evidence offered by the parties, any other witness desired by the Board or by any Member thereof shall also testify.

18.04. Board Determination. When the Board affirms or reverses staff's determination, then such affirmation or reversal is final as of the date it is announced, unless the Board makes its decision subject to the adoption of written findings. In that case, the decision is final as of the date the Board adopts such written findings. Any allowable judicial review may then proceed.

ARTICLE XIX - AMENDMENT OF THE SYSTEM

19.01. Applicability. This Article applies to both Plans.

19.02. Amendment.

(a) The Board may amend the Statewide Hybrid Rules and Regulations, as it deems necessary for the administration of the Plan.

(b) Any amendments to the Statewide Hybrid Plan Document, as separate and distinct from the Rules and Regulations, may be made by the Board upon the approval of at least sixty-five percent (65%) of the then active Members in the Statewide Hybrid Plan and the approval of more than fifty percent (50%) of the employers having active Members covered by the plan. Alternatively, the Board has been granted the authority to amend the Plan document pursuant to C.R.S. 31-31-1102(5) as amended and C.R.S. 31-31-204(2.5) as amended without an election of the active members in order to administer benefits under the Plan consistently and uniformly across the Defined Benefit System in a manner that does not result in an actuarial cost to the Plan.

(c) No amendment may increase the Employer contribution rate above the rate specified in C.R.S. § 31-31-1102.

(d) No amendment shall have the effect of:

(1) diverting for the benefit of any persons, other than Members or their Beneficiaries, amounts attributable to contributions by an Employer;

(2) decreasing the nonforfeitable percentage or amount in any Member's Accounts; or

(3) changing the vesting schedule set forth in Article X, with respect to any Member with five (5) or more Years of Service in the MP Component.

(e) If either Plan is amended or modified, the Plan Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Article.

(f) In the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the Plan, the accrued benefits of the affected Members under the Plan shall be 100% vested and nonforfeitable to the extent funded and to the extent required by federal law.

19.03. Amendment for Qualification of Plan. It is the intent of the Board that the Defined Benefit System shall be and remain qualified for tax purposes under the Code. The Plan Administrator shall promptly submit the Defined Benefit System, including both Plans, to the Internal Revenue Service for approval under the Code, and all expenses incident thereto shall be borne by the Trust Fund. The Board may make any modifications, alterations, or amendments to the Plan necessary to obtain and retain approval of the Secretary of the Treasury or the Secretary's delegate as may be necessary to establish and maintain the status of the Defined Benefit System as qualified under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the System, made in accordance with this Section, may be made retroactively, if necessary or appropriate. The Board and all Employers, employees, Members, Designated Beneficiaries, and all others having any interest under the System shall be bound thereby.

19.04 Elections

(a) Whenever the FPPA Board of Directors proposes a modification to the Statewide Hybrid Plan which requires a vote of the Members and employers, FPPA shall provide to each employer employing active Members covered by the Plan the following information to be distributed by the employer to each such Member:

(1) A copy of the language of the proposed plan modification;

(2) A plain language summary of the proposed plan modification including the proportionate amount of current contributions necessary to fund the modification, if applicable, (Items (1) and (2) shall collectively be called the Required Information); and

(3) A Member election ballot.

(b) Only those members in a component of the Plan that is affected by the proposed amendment shall be eligible to vote on the amendment.

(c) In addition to the Member information in subsection (a), FPPA shall provide the following information to each employer:

(1) A list of the active Members of the affected component of Plan employed by the employer as reflected in FPPA records; and

(2) One employer election ballot or, if the employer employs both fire and police Members of the Plan, two employer election ballots.

(d) FPPA will forward the Required Information, the list of active Members, and the employer ballot by certified mail or hand-delivery to the applicable Department Chief or Chiefs for each employer unless the employer designates a different individual in writing to FPPA; or the employer may pick up the information in the FPPA offices. In cases of delivery by other than certified mail, the employer shall provide FPPA with a written receipt for such information.

(e) The following procedures shall govern the Member election:

(1) Within 15 days of the date of mailing or e-mailing of the Required Information, the employer shall provide a copy of the Required Information to each active Member of the Plan.

(2) The Member election may commence at any time following the employer's receipt of the Required Information and shall conclude no later than the 30th day from the date of such receipt;

(3) The employer may prescribe rules for the return of ballots by Members including rules for absentee balloting as long as such rules ensure the confidentiality of the vote, do not permit voting by proxy, and are not inconsistent with FPPA Rules;

(4) The employer shall exclude from voting any individuals on the roster provided by FPPA who terminate employment prior to the commencement of the vote and shall include Plan Members participating in the affected component not reflected in FPPA's roster who were hired prior to the conclusion of the voting;

(5) Within 60 days from the date of FPPA's mailing or e-mailing to the employer, an authorized representative of the employer must certify the results of the Member election, including:

(a) The vote count for and against the proposed modification;

(b) A roster of those Members receiving ballots and a list of those Members who actually submitted ballots;

(c) A statement that, to the best of the employer's knowledge, all eligible Members timely received the Required Information; and

(d) The election was conducted in a fair and impartial manner.

(f) At the time the Member election results are certified to FPPA, the employer shall also return the employer election ballot. The employer election shall be made by the governing body of the employer. The employer shall attach to the ballot a copy of the motion, resolution or other action evidencing the governing body's decision.

(g) Within 90 days from the date of FPPA's mailing or emailing to employers, the Chief Executive Officer for FPPA shall certify the results of the Member and employer elections to the Board of directors. If at least 65 percent of the active Members and more than 50 percent of the employers approve the proposed modification, the Board will consider final approval at a subsequent meeting of the Board. The effective date of the proposed modification will be the date of the Board's final approval, or such other date as may be prescribed by the Board.

(h) Each employer shall retain all Member ballots actually voted for a period of six months and shall make such ballots available for inspection by FPPA upon its request.

ARTICLE XX - NONASSIGNABILITY

20.01. Applicability. This Article applies only to the Statewide Hybrid Plan.

20.02. Nonassignment. Except as provided in Article XIV, no Member, Designated Beneficiary, or designee may commute, sell, assign, transfer, or otherwise convey the right to receive any payment under the Plan.

20.03. Rights. Except for assignments for child support purposes as provided for in C.R.S. §§ 14-10-118(1) and 14-14-107, as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to C.R.S. § 14-14-111.5, for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, and for payments made in compliance with a properly executed court order approving a written agreement entered into pursuant to C.R.S. § 14-10-113(6), the rights of Members and beneficiaries under this Plan shall not be subject to the rights of their creditors, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person, except to the extent a benefit distributable is subject to a federal tax levy.

ARTICLE XXI - MISCELLANEOUS

21.01. Applicability. This Article applies to both Plans.

21.02. Payments to Minors or Persons of Unsound Mind. If any person entitled to receive any payment hereunder is a minor, or a person of unsound mind, whether formally adjudicated so or not, such payment shall be made to or for the benefit of such minor or person

of unsound mind in any of the following ways, as the Board, in its sole discretion, shall determine: (i) to the legal representative of such person; (ii) directly to such person; (iii) to some near relative of such person; (iv) in such other manner as the Board may deem appropriate under the circumstances. The Board shall not be required to see to the proper application of any such payment made to any person pursuant to the provisions of this Section.

21.03. **Disposition of Unclaimed Payments**. If the Board or Plan Administrator is unable to make any payment due under the Defined Benefit System to any person because the Board or Plan Administrator cannot ascertain the identity or whereabouts of such person after making such written or telephonic inquiries as the Board or Plan Administrator, in its sole discretion, deem reasonable, the Board or Plan Administrator shall suspend all further payments to such person until he or she makes his or her identity or whereabouts known to the Board or Plan Administrator within seven (7) years after such payment was due. The Board or Plan Administrator shall declare such payment, and all remaining payments due such person, to be forfeited as of the expiration of such seven (7) year period. However, such forfeited amounts shall be reinstated to the Member once such person makes his or her whereabouts known to the Board or Plan Administrator.

21.04. **Taxes**. The Board, the Employers and the Plan Administrator do not guarantee that any particular federal or state income, payroll, or other tax consequence will occur because of participation in the Defined Benefit System.

21.05. **Conflicts**. In resolving any conflict between provisions of the Defined Benefit System and in resolving any other uncertainty as to the meaning or intention of any provision of the Rules or Regulations or other document, the interpretation that (i) causes the Defined Benefit System to constitute a qualified plan under the provisions of Code Sections 401 and 414(d) and the Trust to be exempt from tax under Code Sections 115 and 501, (ii) causes the System to comply with all applicable requirements of the Code and (iii) causes the System to comply with all applicable Colorado statutes and rules, shall prevail over any different interpretation.

21.06. **Limitation on Rights**. Neither the establishment or maintenance of the Defined Benefit System, any amendment thereof, nor any act or omission under the Plan (or resulting from the operation of the System) shall be construed:

(a) As giving a Member or Designated Beneficiary any right to, or interest in, any assets of the Fund upon termination of employment or otherwise, except as provided from time to time under the Defined Benefit System and then only to the extent of the benefits payable under the System to such Member or Designated Beneficiary out of the assets of the Trust Fund;

(b) As creating any responsibility or liability of the Employer for the validity or effect of the System;

(c) As being consideration for, or an inducement or condition of, employment of any Member or other individual, or as affecting or restricting in any manner or to any extent whatsoever, the rights or obligations of the Employer or any Member or other individual to continue or terminate the employment relationship at any time; or

(d) In any other regard as a contract between the Employer and any Member or other person.

21.07. Limitation on Recovery. All payments of benefits as provided for in System shall be made solely out of the assets of the Trust Fund, and no fiduciary shall be liable therefore in any manner. Members and Designated Beneficiaries may not seek recovery against the Board, Plan Administrator, Employers, or any employee, contractor, or agent of the Board, Plan Administrator, or Employers for any loss sustained by any Member or Designated Beneficiary due to the nonperformance of their duties, negligence, or any other misconduct of the above-named persons. The above-named persons shall not be liable for losses arising from expense charges of any kind or from depreciation or shrinkage in the value of investments made under this Plan. This paragraph shall not, however, excuse fraud or a wrongful taking by any person.

21.08. Erroneous Payments. If the Board or Plan Administrator make any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Board or Plan Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Board or Plan Administrator, from the person to whom it was made or from any other appropriate party. For example, if any such incorrect payment is made directly to a Member, the Board or Plan Administrator may deduct it when making any future payments, if any, directly to that Member.

21.09. Release. Any payment to any Member or Designated Beneficiary shall, to the extent thereof, be in full satisfaction of the claim of such Member or Designated Beneficiary, and the Board or Plan Administrator may condition payment thereof on the delivery by the Member or Designated Beneficiary of a duly executed receipt and release in such form as may be determined by the Board or Plan Administrator.

21.10. Liability. The Board or Plan Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document, or electronic transmission believed by the Board or Plan Administrator to be genuine or to be executed or sent by an authorized person.

21.11. Governing Laws. The laws of the State of Colorado shall apply in determining the construction and validity of the Defined Benefit System and these Rules and Regulations, with venue in the Arapahoe County District Court with competent subject matter jurisdiction.

21.12. Necessary Parties to Disputes. Necessary parties to any accounting, litigation, or other proceedings relating to the Plan shall include only the Board and the Plan Administrator. However, if the Plan Administrator or Board has delegated duties to a Recordkeeper or other party, the Recordkeeper or other party is a necessary party for those duties that have been delegated to the Recordkeeper or other party. The settlement or judgment in any such case in which the Board is duly served shall be binding upon all affected Members in the Defined Benefit System, their Designated Beneficiaries, and estates and upon all persons claiming by, through, or under them.

21.13. Severability. If any provision of these Rules and Regulations shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Rules and Regulations shall continue to be fully effective.

21.14. Supersession. The terms of the Rules and Regulations shall supersede any previous agreement between any entities or individuals pertaining to the Defined Benefit System.

21.15. Reductions Under the Statewide Death and Disability Plan.

(a) Benefits payable under the Statewide Death and Disability plan to a Permanently Occupationally Disabled retiree or to a Totally Disabled Retiree or to a survivor of an active Member, who entered the Statewide Defined Benefit System from a local money purchase plan, who did not transfer their account balance from the local money purchase plan to the MP Component and who has not taken a distribution of the local money purchase account, shall be reduced by an amount that is the actuarial equivalent of the benefits such Member or survivor of an active Member could receive from the balance of the Member's local money purchase account on the day prior to entry into the Statewide Defined Benefit System, plus any gains or losses to the account through the date of disability. This reduction shall also apply to any account held by the Member which holds the proceeds from the local money purchase account as a result of a tax qualified transfer or roll over.

(b)(1) Benefits payable under the Statewide Death and Disability plan to a Permanently Occupationally Disabled retiree or to a Totally Disabled retiree or to a survivor of an active Member, who entered the Statewide Defined Benefit System from a local money purchase plan and who has taken a distribution of the account, shall be reduced by an amount that is the actuarial equivalent of the benefits such Member or survivor of an active Member would have received from the balance of the Member's local money purchase account on the day prior to entry into the Statewide Defined Benefit System, plus an amount equal to the account balance multiplied by the actuarial rate of return of the Statewide Death and Disability Plan for the period of time from the date of entry to the date of disability.

(2) Benefits payable under the Statewide Death and Disability plan to a Permanently Occupationally Disabled retiree or to a Totally Disabled retiree or to a survivor of an active Member, who as a department chief elected an alternate account pursuant to Rule 3.07(c), shall be reduced by the amount of the benefits, or the actuarial equivalent of the benefits, such Member or survivor of an active Member receives from the Member's alternate account.

(c) Reductions taken pursuant to sub-sections (a) and (b) shall be made without regard to whether the benefits received from the local plan, or its successor, or the distributions are paid on a periodic basis or in a lump sum. No such reduction shall exceed the Actuarial Equivalent of the local plan benefits calculated as if such benefits had been funded at the rate of sixteen percent (16%) of salary.

(d) The Employer shall be responsible for reporting to FPPA the account balances at the time of entry of any local money purchase accounts that are not transferred to FPPA. A Member found to be disabled or a Member's survivor shall be responsible for submitting documents evidencing account balances which show gains or losses to the account from the date of entry to

the date of permanent occupational or total disability or death prior to receiving payment of disability or survivor benefits under the Statewide Death and Disability Plan. The FPPA Actuary, in preparing actuarial valuations of the Statewide Death and Disability Plan, may use the account balances immediately prior to entering the plan which are then time adjusted using the actuarial rate of return of the Statewide Death and Disability Plan.

21.16. Miscellaneous Statewide Death and Disability Plan Rules

(a) For a Member participating in Deferred Retirement Option Plan under a vested or early retirement, the Member shall continue to be covered under the Statewide Death and Disability Plan. Contributions for the cost of the coverage shall continue to be made to the Statewide Death and Disability Plan during participation in Deferred Retirement Option Plan for the Member unless the Member was employed prior to January 1, 1997.

(b) In the event that a Member is granted permanent occupational disability benefits or total disability benefits and is eligible for a distribution of the Member's Deferred Retirement Option Plan account, the Member's monthly disability benefit shall be offset by the actuarial equivalent monthly amount of the Deferred Retirement Option Plan account.

(c) In the event where a Member is participating in the Deferred Retirement Option Plan under a vested or early retirement and where a Member's survivor is granted survivor benefits under the Statewide Death and Disability Plan and is eligible to receive a distribution of the Member's Deferred Retirement Option Plan account, the monthly survivor's benefit payable by the Statewide Death and Disability Plan shall be offset by the actuarial equivalent monthly amount of the Deferred Retirement Option Plan account.

(d) In the event that a Member dies and the Member's survivor becomes eligible for supplemental death benefits pursuant to C.R.S. § 31-31-807.5 (1.5), the monthly retirement benefit, as used in the statute, shall include, but not be limited to, an amount that is the actuarial equivalent monthly amount of a Deferred Retirement Option Plan account, if any, and the actuarial equivalent monthly amount of a Member's Money Purchase Component account, if any.

(e) A Member who is restored to active service after a Temporary Occupational Disability ceases to exist will receive service credit for the period during which the Member received Temporary Occupational Disability Benefits. As an employer contribution from an employer's trust, the Statewide Death and Disability Plan shall transfer to the Member's Normal retirement plan Member and employer contributions in the amount of up to sixteen percent of the monthly base salary that the Member was being paid at the time of Disability retirement multiplied by the number of months the Member received Temporary Occupational Disability benefits.