



**CITY OF PHOENIX  
EMPLOYEES'  
RETIREMENT SYSTEM  
  
POLICY MANUAL**

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<b>SUBJECT</b>	<b>POLICY NO</b>
Interest on Contributions After Termination of Employment	<u>2</u>

Policy: The Retirement Board is responsible for the determination of regular interest, and method of application, under section 2.11 of the Retirement Law.

Section 32.1 of the Retirement Law requires regular interest credits to each member's account, and to the various funds of the plan. Members who resign from City employment cease to be members on the date of their resignation. Therefore, contributions remaining in the savings fund shall not accrue interest unless the individual has vested rights to deferred benefits.

Interest under this policy shall be credited at the end of each fiscal year.

The Retirement Board shall determine each June the percent of interest to be credited to member's contributions.

Additionally, the Retirement Board shall periodically advise the actuary of the proposed regular interest rate of the pension reserve fund in order that they can advise if the pension reserve fund is adequately funded.

After regular interest is credited to the employee's contributions and the pension reserve fund, any remaining interest in the income fund will be distributed to the pension accumulation fund.

<b>SUBJECT</b> Board Election of Officers, Proceedings, Election Process for Board Member Office, Etc.	<b>POLICY NO</b> <u>3</u>
<b>BRIEF SUMMARY</b> Board Election of Officers at the First Regular Meeting in January of Every Year - Officers of the Board, Committees, Agendas, Minutes, Meetings, and Election Process	

Policy:           A. Election of Officers (Ch. XXIV 5.1)

1. At the first regular meeting in January the Board shall elect from its members a Chairman and a Vice Chairman of the Board for a 1 year term or until his/her successor is duly elected and qualified. Should either officer fail to complete his/her term the Board shall select a successor for the balance of the unexpired term.
2. No officer of the board shall serve for more than 3 consecutive terms in the same office.
3. After the election of officers in January the Chairman shall appoint the members of all committees.

B. Duties of Officers

1. Chairman
  - a. Presides over all regular and special meetings of the Board
  - b. Appoints all members of all committees authorized by the Board
  - c. Shall be an ex-officio voting member of all committees
  - d. Automatically authorized by the Board to sign on behalf of the Board any and all investment documentation, transfer of assets, and agreements approved by the Board. Shall also sign any other documentation necessary for the proper administration of the plan.
  - e. Represents the Board in local or national professional organizations
  - f. Performs other duties as directed by the Board
2. Vice Chairman
  - a. Shall perform the duties of the Chairman in his/her absence, or when called upon by the Chairperson
  - b. Performs other duties as directed by the Board

3. Administrator/Executive Secretary

- a. The Retirement Program Administrator shall be appointed by the Board in accordance with applicable Human Resources Department procedures. The Retirement Program Administrator shall serve as the Board's Executive Secretary.

C. Committees

1. The following are standing committees of the Board (ad hoc committees may be appointed by the Chairman from time to time).

- a. Investment Committee
- b. Charter Amendments/Policies & Procedures Committee
- c. Legal Review Committee

2. The Chairman shall be an ex-officio voting member of all committees.
3. The Chairman may appoint the chairperson of any ad hoc committees.

4. Investment Committee

- a. The Investment Committee shall consist of at least three Board members.
- b. The Investment Committee shall be responsible for the examination of all investment matters. The areas under this committee include asset allocation, investment manager review, consultant review, portfolio performance, proxy voting, trust company review, investment guidelines and alternative investments.
- c. The Investment Committee shall make ongoing recommendations and report to the full Board.
- d. The Investment Committee shall meet as often as necessary and its agenda shall be determined by its Chairman. Regular quorum and majority vote shall be required for motions to be passed or business transacted.
- e. The Investment Committee can originate its own agenda items or receive referrals from the full Board. A report shall be presented by the Investment Committee Chairman at the Board's regular monthly meeting.
- f. The Investment Committee shall perform other duties as directed by the Board.

5. Charter Amendments/Policies & Procedures Committee

- a. The Charter Amendments/Policies & Procedures (CAPP) Committee shall consist of at least three Board members.
- b. The CAPP Committee shall be responsible for the examination of procedures, charter changes, rules of the Board, annual budget for submission to the Board and any operating problems of the Retirement Administrator.
- c. The CAPP Committee shall make ongoing recommendations and reports to the full Board.
- d. The CAPP Committee shall meet as often as necessary and its agenda shall be determined by its Chairman. Regular quorum and majority vote shall be required for motions to be passed or business transacted.
- e. The CAPP Committee can originate its own agenda items or receive referrals from the full Board. A report shall be presented by the CAPP Committee Chairman at the Board's regular monthly meeting.
- f. The CAPP Committee shall perform other duties as directed by the Board.

6. Legal Review Committee

- a. The Legal Review Committee shall consist of at least three Board members.
- b. The Legal Review Committee shall be responsible for the examination of legal opinions and other legal issues.
- c. The Legal Review Committee shall make ongoing recommendations and reports to the full Board.
- d. The Legal Review Committee shall meet as often as necessary and its agenda shall be determined by its Chairman. Regular quorum and majority vote shall be required for motions to be passed or business transacted.
- e. The Legal Review Committee can originate its own agenda items or receive referrals from the full Board. A report shall be presented by the Legal Review Committee Chairman at the Board's regular monthly meeting.
- f. The Legal Review Committee shall perform other duties as directed by the Board.

#### D. Agendas

1. Agendas must be produced in conformity with state open meeting statutes.
2. Any Board member can submit agenda items to the Retirement Administrator, preferably in writing if time permits.

#### E. Quorum/Vote

1. Five Board members, of which at least 2 are not ex-officio members, shall constitute quorum at any Board meeting. (Ch. XXIV 8.2).
2. At least three (3) concurring votes shall be necessary for a decision by the Board at any of its meetings. (Ch. XXIV 8.2).

#### F. Meetings

1. Regular public meetings will be held on the third Thursday of each month at 2:30 p.m., location of meeting will be included in agenda.
2. Special meetings may be called by the Chairman, or by any three other members of the Board with written notice in compliance with Arizona Open Meeting Law.
3. The Chairman may reschedule a regular or special meeting as necessary, with written notice in compliance with Arizona Open Meeting Law.
4. The Chairman may cancel a regular or special meeting as necessary, with written notice in compliance with Arizona Open Meeting Law.
5. The Retirement Administrator shall prepare and publish meeting notices in compliance with Arizona Open Meeting Law.
6. The Retirement Administrator shall distribute meeting notices to all Board members, or through other communication processes, notify all Board members of scheduled, rescheduled and cancelled meetings.

#### G. Minutes

1. The Retirement Administrator shall cause to be recorded in the minutes, the time and place of each meeting of a committee or the Board, the name of the members present, all official acts of a committee and the Board and the votes. The minutes shall be written and presented for approval at the next regular meeting and after signature by the Administrator and Chairman shall form part of the permanent records of the Board.
2. Approved committee and Board minutes are available for public inspection in conformity with state laws.

#### H. Election Process (Ch. XXIV 4.2.a)

A. The three elected Board member terms expire 12/31 every three years. The Retirement Administrator is responsible for the election process, and shall submit a schedule of events to the Board for information and review, under the following guidelines:

1. Notice of election to all employees shall be distributed during the early part of September of the election year.
2. Eligible candidates for the office of Employee Board Member shall have at least 10 calendar years of credited service and shall be elected for 3-year terms. The usual rounding procedures and sick leave credit conversion and purchases or transfers of service from other plans, available for retirement, death, termination, etc. shall not apply for purposes of meeting 10 calendar years for Board election.
3. Eligible candidate for office of Board Member, cannot be an ex-officio member.
4. Interested candidates shall submit an application form as prescribed by the Board.
5. Person(s) nominated as candidates for the Retirement Board may withdraw their names from consideration by (a) orally requesting that his/her name not be considered at the time the nominations are taken or (b) submitting a written request to the chairman that his/her name be withdrawn from consideration, after the nomination but before the printing and distribution of ballots.

In the event an elected candidate resigns or otherwise fails to serve, the two Employee Board Members and the Citizen Board Member shall appoint a replacement.

6. The Retirement Administrator shall print ballots for distribution to eligible voters. There shall be a rotation of the candidate names on the ballots so that each candidates name will be presented in each position (first, second, etc.) on approximately an equal number of ballots.
7. Candidates profile will be distributed with the ballots. Candidates will be allowed to submit a narrative "statement of interest" explaining, (in 100 words or less per question), their reason to serve on the Board. This report will not be edited and will be due October 15. There shall be a rotation of the candidate names and statement of interest narrative on the profile so that each candidates name and statement of interest will be presented in each position (first, second, etc.) on approximately an equal number of ballots.

Candidates shall not distribute unsolicited messages or information via the City's e-mail or other City communication resources to members/eligible voters. Candidates are allowed to respond via the City's e-mail or other City communication resources to questions received from members/eligible voters via the City's e-mail or other City communication resources.

8. Ballots shall be prepared by the Retirement Administrator, must be returned to the COPERS office and will be electronically tabulated in accordance with computerized applications and controls.
9. Ballots shall be accepted by COPERS until 5:00 p.m. on Election Day (November 30 or the next business day if weekend or holiday) in order to allow for the afternoon mail delivery.
10. The tabulation shall take place under the Election Chairperson in the presence of the City Auditor. The Retirement Administrator shall appoint an Election Chairperson to supervise the tabulation, resolve issues which may arise, and certify the results to the board. This person must not be an active city employee.
11. The auditor shall issue a certification of the election results.
12. The Retirement Administrator shall notify the election results to the Board, candidates, and membership.
13. Newly elected members shall take the required oath and take office effective January 1 following the election.
14. The elections materials shall be destroyed no sooner than 90 days from the receipt of the city auditor's certification of the election results.

I. Background Check

1. Effective January 2, 2009, all new potential elected employee board members, citizen board members and retiree board members will be required to undergo background screening to include: local criminal history check by Phoenix Police Department, background screening by City of Phoenix contracted vendor, verification of education and/or certifications. The Board will consider the background information. The Board may determine if any unfavorable background information disqualifies an individual from serving on the board.

<b>SUBJECT</b> Refund of Accumulated Contributions - Executive Secretary Authorized to Approve Refunds on Behalf of the Board	<b>POLICY NO</b> <u>7</u>

Policy: The Executive Secretary shall refund member accumulated contributions upon application by any member, who separates from the service of the City, before becoming entitled to receive a pension. The amount of the accumulated contributions shall be that standing to the member's credit in the Annuity Savings Fund, at the time of said separation from City service; provided the conditions as set forth below are satisfied:

1. The said member shall have filed an application (on a form furnished by the Retirement System) for the refund of the accumulative contributions; and
2. Evidence, in writing, shall have been furnished the Retirement System that the said member has actually separated from the City's service; and
3. The Executive Secretary made, or causes to be made under his direction, a careful check of the amount of accumulated contributions to be refunded to the said member; and
4. The Executive Secretary provides monthly reports to the COPERS Board, at each meeting held. This written report must show the name of each member who was refunded the accumulated contributions since the last meeting of the Board, the amount refunded to each member, the name of the department where last employed, the amount of service credited according to the latest Retirement System records and the reason for separation from service; and

The authority given the Executive Secretary shall include refunds of accumulated contributions made on account of termination or death.



<b>SUBJECT</b> Pension Reserve Funds - Ballot Process Required Before Disposition of Excess Funds	<b>POLICY NO</b> <u>8</u>

Policy: No disposition of an excess of funds in the Pension Reserve Fund can be made unless such provision has been approved through the ballot process of changing the current plan.

<b>SUBJECT</b> Custody Of Funds/Record Keeping/Accounting	<b>POLICY NO</b> <a href="#">10</a>

Policy: It is the Board's policy to hire a reputable bank to safe-keep COPERS securities and monitor all related income, payments, etc. The Finance Department is expected to maintain COPERS accounts and financial statements in coordination with COPERS staff.

COPERS financial report shall be published annually under Generally Accepted Accounting Principles (GAAP). The COPERS Board can require periodical financial reports as necessary.

<b>SUBJECT</b> Offsets Against Other Compensation Benefits	<b>POLICY NO</b> <a href="#">11</a>

Policy: Where under the provisions of any workmen's compensation, pension or similar law, money is paid or becomes payable to a member or his dependents as a result of any disability or death, there shall be an offset, established against and payable provided by the city under the provisions of this charter amendment (Section 30) on account of the same disability or death.

The offset herein authorized is intended for annual pension payments plus workmen's compensation payments not to exceed the members final compensation as provided by Sections 21.5 and 25.3 of the Retirement Law.

<b>SUBJECT</b> Rental Allowance as Part of Salary (Not compensation for Retirement Purposes)	<b>POLICY NO</b> <u>14</u>

Policy: The fact that the City furnished a home to an employee does not constitute compensation within the meaning of the Retirement Law.

If it is the desire of the City of Phoenix for the furnishing of a home to constitute compensation for an employee, the employee's salary should first include the amount of the value of such a home and that the employee should pay rent to the City for the property.

<b>SUBJECT</b> Periodic Proof of Eligibility Required From Widows and Guardians of Minors	<b>POLICY NO</b> <a href="#">15</a>

Policy: The Retirement Office staff shall send out the letters, annually, requesting proof of eligibility to still receive a pension to guardians of minor children entitled to a child's pension.

<b>SUBJECT</b> Investment in Federally National Mortgage Association Bonds	<b>POLICY NO</b> <a href="#"><u>18</u></a>

Policy: The Board may invest in Federal Housing Insured Mortgage Bonds of the United States, which FNMA's are.

<b>SUBJECT</b> Retirement - Contributions	<b>POLICY NO</b> <u>23</u>

Policy: The Administrator shall monitor employee/employer contributions to the plan and insure all payments due to the Trust are received and credited on a timely basis.

<b>SUBJECT</b> Computation of Member's Average Final Compensation	<b>POLICY NO</b> <a href="#">27</a>

Policy: Board shall determine the formulas for the computation of a member's average final compensation.



<b>SUBJECT</b> Criteria For Allowable Credit For Services	<b>POLICY NO</b> <u>28</u>

Policy: Board shall determine the criteria for the allowable credit for service.

<b>SUBJECT</b> Signatures on Vouchers	<b>POLICY NO</b> <u>30</u>

Policy: Two signatures will be required for the approval of COPERS transactions (refunds, retirements, etc.). Custodian bank transactions and investment manager instructions will require two signatures: Administrator or Treasurer and either the Chairman of the Board, Vice Chairman or the Chairman of the Investment Committee. The Finance Director may sign in place of the Treasurer in the event of a vacancy.

<b>SUBJECT</b> Fiscal Year of Retirement Board	<b>POLICY NO</b> <u>32</u>

Policy: The fiscal year of the Retirement Board shall be the same dates as the fiscal year of the City of Phoenix.

<b>SUBJECT</b> Restoration of Credited Service Upon Re-Employment	<b>POLICY NO</b> <a href="#">35</a>

Policy: A member may restore credited service previously forfeited upon:

1. Return of contributions withdrawn, together with interest from the date of withdrawal to the date of repayment, and
2. The member complies with the applicable requirements of the Retirement Law (Sec. 13.1) as follows:

- a) Prior credited service earned after 11/25/73.

Prior service after 11/25/73, earned by an employee who started employment with the City after 11/25/73 is subject to the six month rule contained in the current version of Sec. 13.1.

- b) Credited service after December 24, 1969.

If an employee was a member of COPERS from 12/24/69 to 11/25/73 he or she is able to invoke the most liberal version of Sec. 13.1 and, in effect, that version vests the employee with unlimited buy-back rights subject only to the condition that two years of service accrue after the employee re-enters service.

- c) Prior credited service earned from 1/1/53 to 12/23/69.

This service is subject to a timely re-entry requirement. If an employee timely re-enters within five years, the employment contract continues and buy-back rights survive the departure from City service. If the employee does not re-enter within five years, the employment contract terminates and buy-back rights for that contract period expire unless employed during a more liberal version after 12/23/69.

3. Restoration of service credits (also referred to as "buy-backs") shall be presented to the COPERS Board for consideration and must include a recommendation by the Executive Secretary. Any unusual circumstances will be reviewed by a representative from the City Attorney's office.

<b>SUBJECT</b> Retirement Plan Rights Unassignable (Power of Attorney)	<b>POLICY NO</b> <a href="#">39</a>

Policy: Rights accrued under the retirement plan are unassignable. A Power of Attorney giving another person the right to receive retirement money should not be honored by the Retirement Board.

<b>SUBJECT</b> Average Final Compensation - Earned Wages	<b>POLICY NO</b> <a href="#">40</a>

Policy: The "Average Final Compensation" means the average of the highest annual compensation received by an employee for a period of three years of service over the last ten years. However, because of the method by which the City issues pay checks, employees could receive a check at the start of the 3-year period for wages earned during a pay period preceding the 3 years and could be based on a smaller rate of pay. Also, the last pay check received by retiring employees could be received after retirement and after the 3-year period in question.

The legal opinion therefore states that the "Average Final Compensation" should be computed on the basis of all wages earned within the 3 year period in question.

<b>SUBJECT</b> Authorized Expenses Personal Doctor Charges Not Authorized	<b>POLICY NO</b> <a href="#">41</a>

Policy: The Retirement Board shall not pay a member's personal doctor for records provided by that doctor to substantiate an application for disability benefits.

<b>SUBJECT</b> Service Credits - Rounding	<b>POLICY NO</b> <u>43</u>

Policy: A member shall be credited with a month of service for any calendar month in which (a) the member performs 10 or more days of City service as a Tier 1 member, (b) performs 20 or more days of City service as a Tier 2 or 3 member, or (c) in cases where the City's payrolls show only the number of hours worked by a member, without respect to the number of days involved, a Tier 1 member shall be credited with a month of service for any such calendar month in which the member worked 80 or more hours, and a Tier 2 or 3 member shall be credited with a month of service for any such calendar month in which the member worked 160 or more hours. An unpaid City-mandated furlough day or a City-mandated unpaid holiday is a day of City service for purposes of calculating service, but no other unpaid leave days count toward the required minimum days for a month of service. In the event that none of the above conditions (a), (b) or (c) are fulfilled for any calendar month, the member shall not receive service credit for that calendar month.

A Tier 1 member shall be credited with a year of service for any calendar year in which the member has 10 or more months of creditable service. If the Tier 1 member has less than 10 months of service credited for any calendar year, the member shall receive credit for the actual number of months credited for that calendar year.

A Tier 2 or 3 member shall be credited with a year of service for any calendar year in which the member has 12 months of creditable service. If the Tier 2 or 3 member has less than 12 months of service credited for any calendar year, the member shall receive credit for the actual number of months credited for that calendar year.

In no event shall any member receive more than a year of service credit for all service performed in any calendar year; nor shall a member receive more than one month of service credit for all service performed in any one calendar month.



<b>SUBJECT</b> Unclaimed Accumulated Contributions Account Created	<b>POLICY NO</b> <a href="#">46</a>

Policy: The following changes the modern accounting practices.

1. An account be established to provide a reserve for unclaimed accumulated contributions.
2. That unclaimed accumulated contributions be transferred from the Employee Savings Fund to the Reserve for Unclaimed Accumulated Contributions.
3. That any such accumulated contributions refunded to members or their legal representatives be charged to the Reserves for Unclaimed Accumulated Contribution.

<b>SUBJECT</b> Employee's Rights to Benefit in Force at Time of Employment	<b>POLICY NO</b> <u>47</u>

Policy: Employee has a right to be retired under the pension plan in force when his employment began and that such right continues until the employee manifests an intention to be bound by modifications to the pension plan provided in subsequent legislation.

<b>SUBJECT</b> Disbursement of the City of Phoenix Employees' Retirement System Trust Funds	<b>POLICY NO</b> <a href="#">50</a>

Policy: Payments from the Trust Fund due to refunds, transfers to ASRS OR PSPRS, intra-fund transfer, or pension payments shall be made by the COPERS Custodian Bank upon written authorization by the Administrator or City Treasurer. These payments shall be reported by the Administrator at the regular meetings of the COPERS Board. COPERS Custodian Bank shall also pay from the Trust Fund those amounts authorized by the Administrator for certain professional services, as approved in advance by the COPERS Board. These payments shall be countersigned by the Chairman of the Board, or, in his/her absence, by the Vice Chairman of the Board or the Chairman of the Investment Committee. The Custodian Bank shall maintain current records of COPERS' authorized signatures.

<b>SUBJECT</b> Military Service-Eligibility conditions, Uniformed Services Defined	<b>POLICY NO</b> <a href="#">52</a>

Policy: Military Service Credit Section 15 of the Retirement Law

A. Eligibility

A member of the City of Phoenix Retirement Plan may receive full retirement credits for all time spent in service in the uniformed services in the same manner "as if he/she had served the City uninterrupted", provided:

1. The member returns to City service following no more than five (5) years of cumulative service in the uniformed services. The five (5) year limitation does not include periods of absence necessitated by service in the uniformed services, such as preparation for duty or the timely reemployment period defined in paragraph 2 below. Periods of absence necessitated by service in the uniformed services, as well as the actual service in the uniformed services, shall be eligible for full retirement credits.
2. The member returns to City service in a timely manner following receipt of an honorable discharge from military service "actually required" of him/her. The member's return to City service is deemed to be timely if the member is reemployed or requests reemployment in accordance with the following timeframes:

Period of Service	Timely Reemployment/Request
Less than 31 days	first full regularly scheduled work period on first full calendar day following completion of service
Between 30 and 181 days	not later than 14 days after completing service
More than 180 days	not later than 90 days after completing service

If the member is hospitalized for, convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services, the member's return to City service is deemed to be timely if the member returns as of the earlier of the end of the period of recovery or the date which is two years after the completion of service.

If the member experiences total and permanent disability while performing service in the uniformed services, the member shall be

deemed to be timely reemployed by the city in accordance with this section 2 for purposes of receiving retirement credit for the time spent performing service in the uniformed services, up to and including the date of disability. For purposes of this paragraph, the term total and permanent disability shall be defined in accordance with section 21.1 of the charter.

Notwithstanding the foregoing, if a member returns to City service in accordance with the City's reemployment policies and such policies are more liberal than the reemployment policies set forth above, the member's return to service shall be deemed to be timely.

3. He/She returns to the fund all moneys withdrawn while in armed services, plus "interest from the date of withdrawal to the date of repayment." The member must be permitted to repay the withdrawal amount (including interest) over a period beginning on the date of reemployment and continuing for up to three times the length of the member's immediate past period of service in the uniformed services, with the repayment period not to exceed the greater of five years or the member's length of reemployment service with the city.
4. The member must file a statement of military service which shall include all time spent in such service in the uniformed services.

#### B. Service in the Uniformed Services

1. Pursuant to the Uniformed Services Employment and Reemployment Rights Act, service in the uniformed services shall mean the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by 10 U.S.C. 12503 or 32 U.S.C. 115. (added 6/27/07)
2. Any member performing service in the uniformed services, whether or not during time of war or as a result of an enforced draft, shall receive credited service.
3. Uniformed services is defined as:
  - a. United States Army
  - b. United States Navy
  - c. United States Air Force
  - d. United States Marine Corps

- e. Coast Guard
- f. Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty (added 6/27/07)
- g. The commissioned corps of the Public Health Service (added 6/27/07)
- h. National disaster medical system when appointed as an intermittent disaster responder or participating in an authorized training program; or
- i. Any other category of persons designated by the President in time of war or national emergency (added 6/27/07)

C. Evidence of Military Service

COPERS would accept the following documents as evidence of military service:

- 1. Form "Department of Defense No. 214" (DD214).
- 2. Any other official documentation equivalent to 1.

D. General Provisions

- 1. A member cannot be required to pay into the Fund while on military duty. Upon reemployment, a member shall be required to make member contributions to the fund as a condition to receipt of benefit accruals for the credited period of service in the uniformed services. No interest on missed member contributions shall be required. If the City's reemployment policies provide that the City will make member contributions on behalf of the reemployed member or will waive the member contribution requirement for reemployed members, the City's policies shall control and benefit accruals under COPERS shall be credited to the reemployed member.
- 2. If there is any doubt as to the length of military service to be credited, the Board shall make the final determination.
- 3. For benefit accrual calculation purposes, a reemployed member shall be credited with compensation during the credited period of service in the uniformed services equal to the greater of the rate of pay the member would have received but for the period of uniformed services or the actual pay received by the member from the City during the period of uniformed services (differential pay, etc.).
  - (a) if the rate of pay that the member would have received is not reasonably certain, the average rate of pay during the 12

month period prior to the period of service in the uniformed services must be used.

- (b) if the member was not employed for 12 months prior to service in the uniformed services, the actual pay received by the member from the City during the pre-service period shall be averaged to determine the rate of pay.
  - (c) in any event, differential wage payments paid by the City to the member during the period of the member's service in the uniformed services will be treated as compensation for Article II, section 2.13 of the Retirement Law. (added 10/22/08)
4. Interest accrual on outstanding approved buybacks and service purchases will cease during absence due to service in the uniformed services. (added 3/27/03)
  5. Allowable five-year period for repayment of approved buybacks and service purchases will be extended due to service in the uniformed services. The five-year period of repayment will apply to contiguous period of City employment before and after absence due to service in the uniformed services. No payments will be allowed after termination or retirement. (added 3/27/03)
  6. The service purchase application deadline will be extended due to service in the uniformed services. The one-year application window after reaching vesting status will apply to contiguous period of City employment before and after absence due to service in the uniformed services. (added 3/27/03)
  7. The Selective Service Act expired June 1973, registration ended April 1975.
  8. Leaves of absence without pay for service in the uniformed services, including National Guard service and Reserve service, would qualify for military service credit.
  9. If a member dies during the performance of service in the uniformed services, the member will be treated as if he or she resumed employment with the City and died while actively employed by the City. (added 10/22/08)
  10. Differential wage payments paid by the City to the member during the period of the member's service in the uniformed services will be treated as compensation for Article II, Section 2.13 of the Retirement Law. (added 10/22/08)

#### E. Compliance

The board shall construe and interpret this policy on military service in accordance with the requirements of Article II, Section 15 of the Retirement

Law, Section 414(u) of the Internal Revenue Code and the Uniformed Services Employment and Reemployment Rights Act of 1994. To the extent that any City policy governing military leave and reemployment rights is more generous than required under USERRA, such policy shall control service crediting and benefit accruals under COPERS as long as the policy does not conflict with the retirement law.



<b>SUBJECT</b> Age Verification - Proof Required	<b>POLICY NO</b> <a href="#">53</a>

Policy: When a member's age is in question, the Board may require that the member submit proof of age (such as a certified copy of a birth certificate or a court determination of birth) which shall be used to determine the retirant's eligibility for benefits. When there appears to be doubt as to the age of the member, the Board, with the assistance of the City Attorney, shall rule on the member's age. This ruling shall be final

<b>SUBJECT</b>	<b>POLICY NO</b>
Surviving Spouse Eligible For a Pension Cannot Opt For a Lump Sum Payment of Contributions	<a href="#">54</a>

Policy: Surviving spouse eligible for a pension cannot opt for a lump sum payment of contributions.

<b>SUBJECT</b> Payment of Wages	<b>POLICY NO</b> <a href="#">55</a>

Policy: For the repayment of contributions made by an employee to a retirement fund, such contributions are not to be considered "wages."

<b>SUBJECT</b> Mandatory Retirement	<b>POLICY NO</b> <a href="#">56</a>

Policy: The Retirement Plan contains no provision with respect to mandatory retirement, i.e., when an employee must retire. Congress passed the Age Discrimination in Employment Act Amendments of 1978 prohibiting mandatory retirement of a protected individual.

Election of September 9, 2003 repealed references to mandatory retirement in Section 18 of City Charter.

<b>SUBJECT</b> Transfer of contributions From Public Safety Personnel System to and from COPERS	<b>POLICY NO</b> <a href="#">57</a>

Policy: A former member of the Public Safety Personnel Retirement System Fund may transfer his/her contributions in that fund to COPERS and receive full or partial credit for his/her credited service in PSPRS. A former member of COPERS may transfer his/her contributions in that fund to PSPRS and receive full or partial credit for his/her period of service in COPERS.

<b>SUBJECT</b> Collateralization of Investments	<b>POLICY NO</b> <a href="#">60</a>

Policy: Collateralization of investment is understood to mean "secured" investments. The Retirement Plan sets forth the investments that can be made by the Retirement Board. The Board is limited and restricted to making those investments only. Each of the types permitted can be secured in one manner or another.

<b>SUBJECT</b> Confidentiality of Members Records	<b>POLICY NO</b> <a href="#">61</a>

Policy: Information regarding service records, final average compensation and pension amounts is public and cannot be legally refused. The public is entitled to know the wages paid, as well as retirement benefits which retired employees may receive. This is true for the reason that taxpayers' taxes contribute to the payment of wages and to the support of the Retirement System and the payment of retirement benefits. In response to an appropriate public records request, COPERS shall be responsible for the production of only those public records maintained and controlled by the COPERS Administrator and staff, and shall not be responsible for the production of any public records maintained by the City of Phoenix.

<b>SUBJECT</b> Investments - Call options	<b>POLICY NO</b> <a href="#">64</a>

Policy: The Board may sell "Call Options" on common stock owned by the retirement plan, subject to limitations as set forth in Chapter 24, Article II, Paragraph 34 of the Phoenix City Charter.



<b>SUBJECT</b> Medical Review of Disability Retirement Applicant	<b>POLICY NO</b> <a href="#">66</a>

Policy: The Disability Assessment Committee (DAC) may examine the medical records and listing of an applicant and, based upon that examination, conclude, if it can, that applicant is or is not disabled as defined by Section 21 of the Retirement Plan, all without personal clinical examination of the applicant.

<b>SUBJECT</b> Accumulated Contributions Refunds - Delay Period	<b>POLICY NO</b> <a href="#">71</a>

Policy: Refund of accumulated contributions to individuals who have resigned or who have been dismissed shall be held up for a reasonable period of time, not to exceed 90 days, from the date of termination, as required by the Finance Department in coordination with the Administrator. This is intended to minimize the possibility of overpayment and collections.

<b>SUBJECT</b> COPERS Membership Requires “Full Time” Employment Intended Over 12 Months; Meanings of “Employment”, “Full Time” and “Appointive Officials” Clarified	<b>POLICY NO</b> <u>79</u>
<b>BRIEF SUMMARY</b> An employee must not only work a schedule of full-time hours per week, but his work schedule must be intended to be continuous over 12 months in the period; “Employment” refers to employment of full time non-temporary Employees; “Appointive Officials” does not include elected officials.	

Policy: Section 2.5 of the Retirement Plan defines “Employee” and Section 2.6 of the Retirement Plan defines “Member” in relation to the Retirement Plan. In accordance with its discretion and duties pursuant to Section 12.3 of the Retirement Plan, the COPERS Board clarifies the following:

- A. The term “employment” as used in Charter Chapter XXIV, setting forth the provisions of the Retirement Plan, refers to full-time, permanent employment of Employees as the term “Employee” is defined in Section 2.5 of the Retirement Plan.
- B. “Employee” is defined in Section 2.5 of the Retirement Plan as a person in the employ of the City on a "full-time basis." "Full-time basis" is defined as "employment on a work schedule which consists of the number of full-time hours per week designated for the class of employment for the employee classification, and which work schedule is intended to be continuous over a period of 12 months at the aforementioned full-time hours per week." In other words, an employee must not only work a schedule of full-time hours per week, but his or her work schedule must be intended to be continuous over 12 months in the period, for that employee to be an “Employee” for purposes of the Retirement Plan
- C. The term “Employee” does not include persons in temporary employment, *i.e.*, persons employed in a position that is temporary in nature and is not an established regularly budgeted position.
- D. The term “appointive officials”, as used in the definition of “Employee” as set forth in Section 2.5 of the Retirement Plan, includes those positions comprising the unclassified service which are not otherwise excluded by the definition of “Employee”, with the exception that elected officials are not considered “appointive officials” for purposes of the definition of “Employee”.

<b>SUBJECT</b> Pension Benefits For Deferred Retiree Member	<b>POLICY NO</b> <a href="#">84</a>

Policy: A deferred member when requesting pension benefits qualifies to receive a deferred pension pursuant to the pensions of whatever law was in effect at the time he terminated City employment. Any subsequent changes or amendments to the law would not be applicable to the deferred retirement.

Deferred pensions are available to eligible individuals at age 62 as provided by section 20 of the Retirement Law.

<b>SUBJECT</b> Duplicate of Recording of Board/Committee Meetings	<b>POLICY NO</b> <a href="#">85</a>

Policy: It shall be allowed for a member to receive a duplicate of the COPERS' digital recording of a meeting of the Board dealing with his application for Retirement, at his own expense.

The original COPERS' digital recordings may not leave the custody and control of the Executive Secretary. (See Policy 184 regarding Records Retention for Audio or Video Recordings of Board and Committee meetings.)

<b>SUBJECT</b> Unclaimed Retirement Contributions, Checks, Warrants, Death Benefits And Other Property Subject to The Unclaimed Property Act of Arizona, Whether or Not Individuals Completed COPERS Application Forms	<b>POLICY NO</b> <u>86</u>
<b>BRIEF SUMMARY</b> COPERS will transfer property to Arizona State after 5 years (after age 70 1/2 if unclaimed member contributions). COPERS to pay late claims after such transfer in conformity with Section 31 of the Retirement law, Arizona Department of Revenue (ADR) to refund COPERS.	

Policy: A. Types of Property

The following property in deposit with, or in possession of, COPERS is subject to the Unclaimed Property Act of Arizona and therefore transferable to the Arizona Department of Revenue if unclaimed in accordance with the act as implemented by the Finance Department's "Unclaimed Property Procedures."

1. Member contributions balance (including any "buy back" payments) of terminated non-vested individuals
2. Pension checks
3. Alternate payees checks
4. Refund checks
5. Death benefit checks
6. Adjustment checks
7. Deduction and withholding (from pension and/or refunds) checks
8. Other miscellaneous items

For PURPOSES of member contribution balances, period for unclaimed starts upon the former member reaching age 70 1/2 when the distribution of such contributions becomes mandatory under the Internal Revenue Service (IRS) laws and as provided by Section 44-312 of the Arizona Revised Statutes (ARS).

B. Due diligence effort to contact owner of property in deposit with, or in possession of COPERS.

The COPERS staff must document at least 2 attempts to contact the owner of the property in question, for balances of \$50 or more. One of these attempts must be no earlier than 120 days from the transmittal report to the ADR. This may include (but is not limited to):

1. Certified correspondence to last known address
2. Regular mail correspondence to last known address
3. Telephone contact to last known phone number or listed number
4. Contacts through last place of employment within the city
5. Contacts through word of mouth when possible

6. Contacts with database agencies specializing in tracking individuals by computer and social security numbers

C. Transfer of assets to the Arizona Department of Revenue/loss of credited service

After the documented due diligence efforts fail (and after determination the funds are unclaimed under ADR requirements) the funds in question are transferred to the Arizona Department of Revenue, via check issued by COPERS custodian bank, within the time limits prescribed (no later than 11/1 and as of the prior 6/30). The usual accounting controls and audit process shall be followed.

D. Reporting

A report as required by ADR must be attached to such check and kept in COPERS permanent files for future reference as necessary. It must contain the following information:

1. Name
2. Address
3. Nature of Payment
4. ID number
5. Amount
6. Date Property became payable
7. Date of last transaction with owner
8. Previous owner (In case of beneficiary of member/retiree)

E. COPERS Records

Individual files at COPERS must include a reference to any transfer of funds to ADR, with the notation that any credited service has been forfeited and may be subject to the buy back provisions of section 13.1, as if the member received the refund of his/her contributions directly.

F. Arizona Department of Revenue to comply with late demands for payment of contributions already transferred to them under the Unclaimed Property Act.

The City Charter (Chapter XXIV) provides for indefinite late claims of a member's unclaimed accumulated contributions, presented to COPERS after such accounts are closed, in conformity with section 31 of the Charter. In light of this, COPERS is expected to honor such late claims, even after the funds have been transferred to the Arizona Department of Revenue (ADR). The ADR will be required to refund such amounts to COPERS in conformity with Section 44-310(b) of the Arizona Revised Statutes (ARS). The transmittal letter of any checks sent to ADR under this policy shall include a reference to COPERS expectations in the event of such late claims.

<b>SUBJECT</b> Pension Benefits (Option C - Death of Retiree and Designated Beneficiary)	<b>POLICY NO</b> <u>88</u>

Policy: When a retirant selects Option C, and subsequently the retirant and the retirant's beneficiary become deceased before the minimum of ten (10) years has expired, the payments for the balance of the 120-month (10-year) period are owing to the estate of the retirant's last surviving designated beneficiary. Payment can only be made to a duly-qualified and court-appointed personal representative (administrator).



<b>SUBJECT</b> Retirement Qualifications (Transfer From PSPRS to COPERS)	<b>POLICY NO</b> <a href="#">89</a>

Policy: If a member transfers from the Public Safety Personnel Retirement System to the City of Phoenix Employees' Retirement System, his/her retirement is governed by the plan in effect at the time the transfer was made.

<b>SUBJECT</b> Investment Policy - Covered Call Writing	<b>POLICY NO</b> <u>94</u>

Policy: Covered Call Writing

"Call Options," written by a stock owner (optionor) are agreements whereby the purchaser (optionee) has the option of buying stock at a price fixed in the agreement (strike price), the option remaining open for a specific period of time.

Details are as follows:

1. A stated fee, usually in terms of dollars per share, is paid to the optionor at the time of the execution of the option agreement by the optionee.
2. The optionee may or may not exercise the option during the period called for.
  - (a) If the stock decreases in value or remains the same, in all probability the option will never be exercised and the optionor has made a profit in the amount of the option fee.
  - (b) If the price of the stock on the open market rises above the strike price, then the optionee might well choose to exercise the option and resell the stock at the higher price for a profit.
  - (c) The optionor is, of course, obligated to sell at the option price. If the price rises, the optionor, in this case the Retirement Plan, has lost the opportunity to make a profit on the sale of the stock, and is limited to whatever fee it has already received upon the execution of the option agreement.

<b>SUBJECT</b> Benefits - Documentation Required if Beneficiary a Minor	<b>POLICY NO</b> <a href="#">96</a>

Policy: If a member's beneficiary is a minor, and the member dies, and has not qualified for a pension, the accumulated contributions can be paid to the person having care and custody of the minor child. An affidavit showing that the person affirms that he/she does have the care, custody and control of the minor child and a copy of the minor child's birth certificate should also be obtained.

<b>SUBJECT</b> Pension Payments Distribution Schedule	<b>POLICY NO</b> <u>101</u>

Policy: COPERS monthly pension checks are issued via checks or by electronic transfers (direct deposit). COPERS paying agent shall mail pension checks and display direct deposit advices on-line so as to be available to the retirees on the 1st calendar day of the month subject of payment. In the event such day is Saturday, Sunday, or holiday, then the payment date shall be the business day immediately before, except for the January 1<sup>st</sup> payment which will remain payable on January 1<sup>st</sup>.

COPERS paying agent shall transmit pension fund transfers through a bona fide clearing house system. Electronic credits shall be available for destination bank access on the first business day of the month subject of payment. In the event such day is Saturday, Sunday, or holiday, then the payment date shall be the business day immediately before, except for the January 1<sup>st</sup> payment which will remain payable on January 1<sup>st</sup>.

COPERS paying agent shall provide COPERS staff with their proposed pension/stub calendar year mailing schedule before January of each year.

<b>SUBJECT</b> Purchasing/Rebidding Policy	<b>POLICY NO</b> <u>103</u>

Policy: The Retirement Board shall purchase certain services through a Request for Proposals (RFP) process or an open search process. The Retirement Board shall undertake a procurement process or renewal of an existing agreement after a comprehensive review.

1. **Introduction**

The Retirement Board (the “Board”) of the City of Phoenix Employees’ Retirement System ( “COPERS”) has established this policy for the procurement and rebidding of professional services which may include but is not limited to actuarial, legal, computer, banking services, investment consulting and investment management services. This policy outlines the RFP and open search process established by and for the board in order to procure services to conduct its business. This policy does not apply to the Retirement administrative staff procurement of goods and services that abide by the City of Phoenix Administrative Regulation, AR 3.10.

The Board will determine whether an RFP process or an open search process will be utilized for a procurement based on a comprehensive review of the effectiveness and efficiency of each process and recommendations from consultants and/or staff.

The Board will determine whether a renewal of an existing agreement or the initiation of a procurement process is warranted based on a comprehensive review and recommendations from consultants and/or staff.

2. **RFP Procedures**

The COPERS’ RFP procedures for procuring professional services for the Retirement Board are the following:

- Create RFP document with Board acceptance of scope of work requirement
- Set a schedule of events for issuing RFP and deadline for responses
- Advertise the RFP via the appropriate channels for the service being sought
- Retirement Board (or selection committee as established by Board or Board Chairperson) reviews responses and selects firms to interview
- Retirement Board (or selection committee as established by Board or Board Chairperson) conducts interviews
- Retirement Board selects finalist
- Announce selected firm
- Prepare agreement for filing with City Clerk
- Retirement Board and staff begin doing business with selected firm

### 3. **Open Search Process**

The COPERS' procedure for the open search process for the selection of investment managers was established through consultation with the Board's Investment Consultant and was reviewed by a third party.<sup>1</sup> This or a similar process may be used for other professional services if determined by the board to be the most efficient and effective process.

For an open search process for investment managers, the Board's investment consultant shall:

- Establish appropriate investment manager criteria based on the Retirement Board's specific needs
  - Report asset allocation guidelines, manager selection analysis and Board's goals
- Select investment managers for further consideration based on analysis of guidelines and Board's goals
- Prepare quantitative analysis of identified investment managers
  - Report performance history, risk/return profile, peer comparisons, ranking of firm and investment style
- Prepare qualitative analysis of the identified investment managers
  - Report investment philosophy, decision-making process, experience and stability of investment team, account turnover and ownership factors and fees

For an open search process for investment managers, the Board (or selection committee as established by Board or Board chairperson) shall:

- Review quantitative and qualitative analysis prepared by the Board's investment consultant
- Review responses and select firms to interview
- Conduct interviews
- Retirement Board selects finalist
- Announce selected firm
- Prepare agreement for filing with City Clerk
- Retirement Board and staff begin doing business with selected firm

### 4. **Ongoing Evaluation and Review**

The ongoing evaluation and review of investment managers is documented in Board Policy 154.

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<sup>1</sup> "Many public funds find this process to be more efficient as it avoids the delays associated with issuing RFPs and at the same time is equally accessible, transparent, fair, and prudent." Ennis Knupp 2009 Comprehensive Review page 4.3.

All professional contracts shall be reviewed by the Board at the end of each three year period.

5. **Renewing / Rebidding / Terminating**

The COPERS' procedure for renewing, re-bidding or terminating a Retirement Board professional services contract is at the discretion of the Board at the time of contract expiration or at any time during the length of the approved contract. The Board has the discretion to renew and extend the contract for an additional term where appropriate depending on the professional service.

6. **Contract Terms**

The contract terms shall include a for cause or no cause termination clause.

<b>SUBJECT</b> Mortality Tables	<b>POLICY NO</b> <a href="#">105</a>

Policy: The Retirement Board shall review the mortality tables currently adopted every five years for ascertaining their continued accurate reflection of the Retirement Plan's mortality experience.



<b>SUBJECT</b> Disability Retiree to Get Credit for Workmen's Compensation Period When it Ceases	<b>POLICY NO</b> <a href="#">110</a>

Policy: At the time a disability retirant's workmen's compensation ceases, the retirant shall be given service credit for such time as he collected the workmen's compensation. The Retirement Board shall request another medical examination of the retirant, if they so desire.

<b>SUBJECT</b> Balance in Member Contributions After Pension Under Section 25.2 Payable to Designated Beneficiary or Estate	<b>POLICY NO</b> <a href="#">111</a>

Policy: Section 25.2 of the Retirement Law provides for a pension to the widow or widower (or dependent parents) of a deceased active employee (provided 10 years or more of service at the time of death). Also surviving children under age 18 become eligible for a pension of \$200 per month. Any money still payable from a member's contribution that has not been paid out in pensions according to Section 25.2 shall be paid in a lump sum to designated beneficiary or estate.

<b>SUBJECT</b> City Required to Make Annual Contributions, or Monthly, at City's Discretion	<b>POLICY NO</b> <a href="#">115</a>

Policy: The City is required to make annual contributions to the Pension Accumulations Fund. This contribution can be made monthly or each pay-period at the City's discretion.

<b>SUBJECT</b> Board Authority to Correct Errors in Pensions	<b>POLICY NO</b> <a href="#">116</a>

Policy: The Retirement Board has the authority to correct any errors in any pensioner's pension, whether overpayment or underpayment. Each situation is handled on an individual basis.

<b>SUBJECT</b> Retirement Office to Certify Annual Contributions to the City Council	<b>POLICY NO</b> <a href="#">117</a>

Policy: The Retirement Law requires a certification to the City Council, each year, indicating the employer amount of contributions required for the next fiscal year. It shall be the Board's policy to issue an annual certification through the City Finance Director. The annual letter shall include the actuary's report supporting the employer contribution amounts.

<b>SUBJECT</b> Amortization Period of Unfunded Actuarial Accrued Liability	<b>POLICY NO</b> <a href="#">118</a>

Policy: The unfunded actuarial accrued liability (UAAL), as of June 30, 2013, is to be amortized over a closed 25 year period.

Future UAAL amounts will be amortized on their own closed amortization schedules, typically 20-years in length, but with gains to be amortized over a period no shorter than the remaining period on the closed amortization of the UAAL as of June 30, 2013.

This schedule is subject to periodic review and can be changed at the discretion of the Board.

<b>SUBJECT</b> Approval of Annual Pension to Dependent Parents of Deceased Member	<b>POLICY NO</b> <a href="#">119</a>

Policy: The Retirement Board may approve the payment of an annual pension to the deceased member's parents, providing member leaves neither widow, widower, children eligible to receive pensions and Board has obtained proof that parent(s) were dependent on member for at least 50 percent of their support due to absence of earning power because of physical or mental disability. The Board shall evaluate such proof of dependency such as income tax returns, etc., in making such decisions.

<b>SUBJECT</b> Appointment of Actuary, Periodic Bid Process	<b>POLICY NO</b> <a href="#">120</a>

Policy: The Retirement Board shall appoint an actuary as technical advisor. The Board may, at its discretion, solicit bids periodically for continuation of service.



<b>SUBJECT</b> Actuarial Experience Study (5 years)	<b>POLICY NO</b> <a href="#">122</a>

Policy: The Plan's Actuary shall conduct an experience study every five years. This actuary shall make recommendations relative to the Plan's actuarial assumptions, mortality table factors, and to ensure proper funding patterns based on future expectations and the Board's objective of a level employer contributions rate as a percent of covered payroll.

<b>SUBJECT</b> Random Review of Pensioners	<b>POLICY NO</b> <a href="#">123</a>

Policy: The Administrator shall conduct an annual sample review of the Plan pensioners to ensure retirees are receiving their monthly payments as required by the Retirement Law. The sample will be approximately one-third of current retirees using a three-year cycle and the following last-name alphabetical series: A-F, G-M, and N-Z. Each retiree will be included in the sample once each three years.

This process shall be supplemented with annual comparisons of all COPERS pensioners' records against a national database of deceased individuals.

The results of these control procedures shall be reported to the COPERS Board at least annually.

<b>SUBJECT</b> Authorization for Direct Deposit of Pension	<b>POLICY NO</b> <a href="#">124</a>

Policy: If a current active COPERS member retires and wants his pension to be deposited in the same manner as was in place for the member's employee wage payments immediately prior to retirement no form is needed.

The City of Phoenix Employees' Retirement Board authorized a process to allow retirees to utilize e-CHRIS (the City of Phoenix Human Resource Information System) for direct deposit instructions. Completed direct deposit forms will continue to be accepted and processed.

<b>SUBJECT</b> Authorization for pension deductions by retiree, to be maintained in retiree's file	<b>POLICY NO</b> <a href="#">125</a>

Policy: Source documents for deduction authorizations be filed in the individual's file folder.

<b>SUBJECT</b> Proofs of Death, Guardianship, or Powers of Attorney to be Maintained in Appropriate Files	<b>POLICY NO</b> <a href="#">126</a>

Policy: Documented proofs of death and documented guardianship or powers of attorney should be secured for each applicable situation and placed in appropriate file folder and records update to reflect these changes.

<b>SUBJECT</b> Beneficiaries Can Submit Other Documents and Affidavits in Lieu of a Duly Executed Application	<b>POLICY NO</b> <a href="#">127</a>

Policy: Beneficiaries will be required to furnish other documents and affidavits in lieu of a duly executed application when such application has not been provided. These documents when secured, shall be placed in retiree's file folder and records updated to reflect the changes.

<b>SUBJECT</b> Changes to Pensioners/Members Records	<b>POLICY NO</b> <a href="#">128</a>

Policy: Any changes to COPERS pensioners or members' records must be based on written documentation received.

<b>SUBJECT</b> Procedural Manual Required	<b>POLICY NO</b> <a href="#">129</a>

Policy: A policy and procedural manual shall be established to cover all actions taken by the Retirement Administration. This policy manual should be kept current by the Administrator.



<b>SUBJECT</b> Investments - Inventory of All Securities by COPERS Staff, City Treasurer, Auditor	<b>POLICY NO</b> <a href="#">136</a>

Policy: COPERS Investment securities are generally held by a depository in nominee name for purposes of facilitating settlement of transactions. This process reduces the possibility of failed settlements and is generally accepted in the investment industry. Audit techniques provide for electronic audit of securities, in lieu of physical inspections. COPERS internal and external auditors are expected to follow these and other generally accepted auditing practices in their inspection of the securities held by the retirement board.

<b>SUBJECT</b> Power of Attorney - Changes on Behalf of Retirees	<b>POLICY NO</b> <a href="#">140</a>

Policy: The COPERS Board recognizes the validity of Powers of Attorney for certain changes in the retirees' records, such as change of address, direct deposits to bank accounts which include the retirees' name, stop payments, etc. To ensure a full protection of the retirees' rights, any designation of beneficiary forms, changes/designation of survivor under optional form of retirement, and changes of payee name in the monthly pension checks will not be permitted through power of attorney, unless such document specifically authorizes these type changes. Typically, the retiree is expected to sign these documents if able, in conformity with standard signature/endorsement procedures. In case of incompetency, the retirees' guardian must follow applicable legal procedures and file the necessary documentation in the COPERS office.

<b>SUBJECT</b> Member and Beneficiaries' Documentary Proof Of Birth Shall be on File Along with Copy of Social Security Card	<b>POLICY NO</b> <a href="#">143</a>

Policy: Copies of documentary proof of birth of both the retiree and beneficiary shall be placed in the file. Additionally, the beneficiary's social security number and copy of the social security identification card of the beneficiary will also placed in the retirant's folder.

<b>SUBJECT</b> Repurchasing of Credited Service Due to Refund (“BUYBACKS”)	<b>POLICY NO</b> <u>145</u>

Policy: A. An active COPERS member who chooses to apply to purchase previously forfeited COPERS credited service must submit a written request to COPERS. Payment of an application fee of \$95.00, via check or money order payable to the City of Phoenix Employees’ Retirement System (which will be deposited in the City of Phoenix General Fund), is required to accompany the written request. Prior to Board action, an applicant may request the process of the buyback be suspended. The \$95 fee will subsequently apply to a reinitiated request of the suspended buyback. The suspension or cancellation of a request will not result in a refund of the application fee.

B. Repayment Process

1. The repayment period shall be no later than the earlier of the employee’s termination or the employee’s retirement date;
2. Payment may be deducted from bi-weekly paycheck through payroll deduction; (other payment options available as approved by the Board)
3. The principal amount to be repaid at time of agreement consists of;
  - a. Refunded amount and
  - b. Lost earnings to the plan are due to the withdrawal, determined as follows:
    - (1) Time frame - beginning of the first of month following disbursement - if date of disbursement unknown then first of month following Board approval;
    - (2) For fiscal years 1947 through 1988 use the Plan’s earnings rate for prior plan years at each June 30th as determined by Cash Management’s - attached schedules. Partial years will be determined by applying the earnings rate times number of months divided by twelve (12);
    - (3) For fiscal years after 1988 use actuarial rate in effect for each fiscal year. Partial years will be determined by applying the rate times number of months divided by twelve (12);
    - (4) Compounding will occur at end of fiscal year and/or date of agreement.
4. In the event of a payment plan, future interest rates, and basis for amortization of payments will be the actuarial rate in effect at date of agreement - currently 8.0 percent (as of 7/1/91).

5. A portion of the previously forfeited credited service may be purchased by paying the appropriate portion of the refunded amount, lost earnings and interest.
- C. Rescission of Payroll Deductions for Buyback of Prior Service Credits (after-tax payments)
1. Any member buying back prior service credits through after-tax payroll deductions may rescind such buyback through written request filed with the COPERS Office.
  2. A portion of the previously forfeited credited service will be restored based on the payments received prior to the implementation of the rescission of the after-tax payroll deduction.
  3. Payment plans may not exceed five (5) years.
- D. Pre-tax payroll deduction agreements are irrevocable and may not be rescinded.
1. Payment plans may not exceed five (five) years.



<b>SUBJECT</b> Impact of Pension Equalization Program (PEP) Adjustments on Survivorship and "Pop up" Options	<b>POLICY NO</b> <u>147</u>
<b>BRIEF SUMMARY</b> "The COPERS recognizes the PEP adjustments, if any, should apply to survivorship options under the Retirement Law...policy formalized...(to cover survivor pensions and pop-up options)"	

Background: The COPERS recognizes the PEP adjustment, if any, should apply to the survivorship options under the Retirement Law (100%, 50% options, 10 years certain, 100% "pop up", and 50% "pop up" option). Therefore, the following policy is formalized.

- Policy:
1. In the event of death of a retiree under an optional form of retirement, the designated surviving beneficiary's pension shall be based on the retiree's most current pension, including PEP adjustments applied to the time of death of the retiree.
  2. In the event of death of a retiree (or designated beneficiary) under option "C" (10 years certain and life), the designated beneficiary's continued pension must be based on the retiree's most current pension, including PEP adjustments applied up to the time of death of the retiree or his/her beneficiary.
  3. In the event a designated survivor of a retiree under a "pop up" optional form of retirement, the retiree's monthly pension shall be adjusted to equal the straight life amount, including PEP adjustments applied up to the time of death of the designated beneficiary.

<b>SUBJECT</b> Interest Credits to Separated Members or Surviving Beneficiaries Applying For Refund of Contributions	<b>POLICY NO</b> <u>148</u>
<b>BRIEF SUMMARY</b> "Vested terminated employees...surviving beneficiaries of vested employees...active employees to be credited interest if contribution balance exists as of 6/30 of the year...Non vested terminated survivors not eligible for interest credits.	

- Policy: 1. Vested terminated employees: Interest on member contributions will be credited as of June 30 of every year so long as a contribution balance exists as of that date. The individuals will be given the choice (in the appropriate forms) of obtaining a refund of contributions, after June 30 of the year in question, so as to obtain interest credits for the fiscal year then ended. (Adopted by COPERS Board July 21, 1993.)
2. Surviving Beneficiaries of vested active members or deferred status terminated employees: The refund of contributions to eligible designated beneficiaries (of vested active or deferred terminated employees) shall be subject to the same interest policy as vested terminated employees, explained in 1. above (based on Section 20.1 of the Retirement Law).
  3. Non-vested terminated employees: Surviving beneficiaries of non-vested active members will not have interest credited as of June 30 of every year, since interest credits apply only to vested (deferred status) individuals (Section 20.1) and active members (Section 32.1).
  4. Active members as of June 30 of every year, shall be credited interest on their employee contributions balance (pursuant to Section 32.1 of the City Charter) regardless of vested status.



<b>SUBJECT</b> Interest on member contributions and Pension Equalization Reserve Fund	<b>POLICY NO</b> <u>150</u>
<b>BRIEF SUMMARY</b> This policy provides guidance on how interest on member contributions and the Pension Equalization Reserve Fund are calculated.	

Policy: The COPERS Board adopts the following policy.

1. It shall be COPERS policy to adopt an interest rate on member contributions and the Pension Equalization Reserve Fund equal to the lesser of:
  - a) the investment return used for the last regular actuarial valuation, or
  - b) the annual average of the time weighted rates of return, certified by COPERS' consultant for COPERS' combined Fund, for the immediately preceding five calendar years (consistent with the pension equalization return formula and rounded to the nearest percentage point).
2. In no event shall the interest rate, herein described, be less than 0%.
3. Interest shall be credited to members contribution accounts and the pension equalization reserve fund as of June 30 of every year as prescribed by Section 32.1 of the Retirement Law and Board Policy.
4. This policy shall be effective May of 1993, for the regular interest credit due June 30, 1993.
5. In subsequent years, the retirement administrator shall report no later than the month of May, the resulting rate, following the Board's policy, as described above.
6. In no event shall the interest rate on member contributions exceed 3.75% beginning January 1, 2016.

<b>SUBJECT</b> Buyback Requests For First 6 Months of Employment - Administrator Authorized to Approve	<b>POLICY NO</b> <u>151</u>

Prior to December 24, 1969, City of Phoenix employees had the option not to become members of COPERS during the first 6 months of employment. Generally, a membership waiver was signed by the interested employee and made part of the employee's record. These waivers were not always kept as a permanent record by COPERS or the Personnel Department.

Policy: It is the decision of the City of Phoenix Employee Retirement Systems Board, to delegate to the Retirement Administrator its authority to resolve buyback requests, attributable to the first 6 months of employment when COPERS membership was optional. It is recognized the requests for this type of service credit in some cases can be for less than 6 months of service. The Retirement Program Administrator shall continue to refer to the full Board any and all "buyback" requests falling outside the limited scope of this delegation of authority.

<b>SUBJECT</b> Board Rules Regarding I.R.S. Rollover Regulations	<b>POLICY NO</b> <u>152</u>

Policy: Rule No. 1 - The purpose of these rules is to insure compliance with the eligible rollover distribution provisions of Sections 401, 402, 402a and 408a of the Internal Revenue Code (the "Code"), as amended. The System's administrative procedures shall be designed to comply with all applicable Code rollover requirements, not all of which are set forth in this Policy.

Rule no. 2 – A refund of accumulated contributions from the system shall be eligible for rollover to an "eligible retirement plan" as that term is defined in Code Section 402(c)(8)(b) (qualified employer plans and traditional IRAs) or Code Section 408a(b) (Roth IRAs), subject to the restrictions of the Code, the Charter and this Policy. Effective January 1, 2008, a member or a spouse beneficiary may elect a rollover to a Roth IRA, provided that the member or beneficiary satisfies the roth conversion rules of the code.

Rule No. 3 - Any distribution made to any employee of the City under Phoenix Charter, Chapter 24, Sec. 26 ("Sec 26") in an amount less than \$200.00 shall not be subject to these rules or withholding. If the amount of the allowable exclusion is changed by Federal law or Regulation, subsequently to the adoption of this rule, this rule shall be deemed to be amended to match.

Rule No. 4 - The Retirement Program Administrator shall cause to be prepared and distributed to any employee applying for return of Accumulated Contributions (an "applicant") under Sec. 26, a "Special Tax Notice Regarding Plan Payments", as required under Code Section 402(f), as amended. This information shall be delivered to the employee at the time of the initial application or inquiry regarding return of contributions, and a written receipt of said notice shall be obtained from such employee and maintained by the Administrator.

Rule No. 5 - In addition to the Notice required by the foregoing Rule, the Administrator shall deliver to each employee applying for such return of contributions, an application for return which, in addition to any other information required by the Administrator, shall contain as a minimum, the following information.

- A. Date of birth of the applicant.
- B. The amount of Accumulated Contributions to be paid directly to the applicant, rolled over to an IRA or qualified employer plan, or combination thereof. (Notification of the total amount of Accumulated Contributions will be provided to each employee via separate documentation.)
- C. If rollover to an IRA is requested, the name, address and telephone number of the financial institution; and account number of each IRA account to which rollover is requested.

- D. If rollover to a qualified employer plan of another employer is requested, the name, address and telephone number of the plan and the plan Administrator or Trustee.
- E. A statement that the applicant shall save and hold the City of Phoenix Employees' Retirement System and its Board, harmless, and shall indemnify both for any loss which might be suffered by reason of the applicant's designation of a rollover recipient which is an ineligible recipient under the Code or Regulations adopted thereunder.
- F. A statement that the applicant recognizes that any distribution to a rollover recipient shall be made directly by the Retirement System to the designated recipient.
- G. Rollover to an inherited IRA or a Roth IRA is requested, the applicant's representation that the recipient IRA qualifies as an inherited IRA under code Section 408(d)(3) or a Roth IRA under Code Section 408a, as applicable.

Rule No. 6 - Upon final approval of the application by the Administrator, the System shall disburse properly authorized rollover amounts to the designated recipients and shall pay any remaining accumulated contributions to the applicant, subject to all applicable state and federal withholding taxes.

Rule No. 7 - If an employee requests a partial rollover and the funds available for distribution include after-tax contributions (amounts upon which taxes have been previously paid), the Administrator shall apply the rollover election first to any pre-tax amounts available for distribution and then to any after-tax amounts.

Rule No. 8 – To the extent that after-tax contributions are subject to an employee's rollover election, such after-tax amounts may be rolled over, in a direct trustee-to-trustee transfer, to any eligible retirement plan as defined in Code Section 402(c)(8)(b) (qualified employer plans and traditional IRAs) or Code Section 408a(b) (Roth IRAs). If the after-tax contributions are rolled over to an employer plan, such plan must provide separate accounting for after-tax amounts. An employee's right to request a direct rollover of after-tax contributions to a defined benefit pension plan or a Code Section 403(b) annuity contract shall be effective as of January 1, 2007

Rule No. 9 - Multiple Rollovers may not be less than \$500 per rollover. Single rollovers of less than \$500 are permissible.

Rule No. 10 – Effective as of January 1, 2002, death benefit distributions payable to spouse beneficiaries may be rolled over in the same manner as if the spouse beneficiary was a member of the System. Effective as of January 1, 2007, a nonspouse beneficiary receiving death benefits under the System may elect a direct rollover to an inherited IRA.

<b>SUBJECT</b> Domestic Relations Orders (Requirements)	<b>POLICY NO</b> <u>153</u>
<b>BRIEF SUMMARY</b> Requirements: Name of member and alternate payee - percentage or amount payable - number of payments or period - not provide for increased benefits - not required payment of benefits already payable under DRO – sample language provided	

Policy: COPERS will implement stipulated and/or non-consensual domestic relations orders (DRO's) that comply with the following:

1. COPERS will affirmatively respond to DRO's that contain the following provisions and otherwise comply with the requirements of this Policy:
  - a. The name and the last known mailing address (if any) of the Member and the name and mailing address of the Alternate Payee covered by the order;
  - b. The amount or percentage of the Member's benefits to be paid by COPERS to the Alternate Payee, or the manner in which such amount or percentage is to be determined;
  - c. The number of payments or period to which such order applies;
  - d. A provision specifying whether the order applies to member contributions and/or monthly pension benefits;
  - e. A provision specifying whether the Alternate Payee is entitled to future increases;
  - f. Affirmative statement that COPERS is not required to provide increased benefits (determined on the basis of actuarial value or otherwise); and
  - g. Affirmative statement that COPERS is not required to pay benefits to an Alternate Payee which are required to be paid to any other person under another court order.
2. All COPERS retirement benefits awarded to an Alternate Payee are paid over the life of the Member, except as set forth in paragraph 3 below.
3. All retirement benefits awarded to an Alternate Payee whether or not devisable to his/her heirs cease upon the Member's death, unless the DRO contains the following provisions:
  - a. The payment of benefits to an Alternate Payee will continue after the Member's death until the Alternate Payee's death if:

- i) The DRO contains a provision indicating an actuarial reduction in benefits will be required for the payment of a lifetime benefit to the Alternate Payee and
    - ii) The Member's spouse, if the Member is married at the time the DRO is approved by COPERS, agrees to an actuarial reduction in potential future benefits if the Member elects a joint and survivor option (Option A Standard, Option A Pop-up, Option B Standard, Option B Pop-up or Option C pursuant to Charter § 24.1).
  - b. If the Member is married at the time the DRO is approved by COPERS and the spouse consents as required pursuant to section 3(a)(ii) above, the actuarial reduction will be based on either the ages, at the time of the Member's retirement, of the Member and the Member's spouse, or of the Member and the Alternate Payee, whichever provides the greater actuarial reduction. If the Member is not married or the Member marries after the DRO is approved by COPERS, the actuarial reduction will be based on the ages, at the time of the Member's retirement, of the Member and the Alternate Payee.
  - c. If the DRO calls for the payment of the Alternate Payee's benefit in the form of a single life annuity payable over the life of the Alternate Payee, the DRO shall state whether the actuarial reduction is assigned solely to the benefits awarded to the Alternate Payee or apportioned between the Member's benefit and the Alternate Payee's benefit. The Member and/or Alternate Payee (as determined by the parties) must pay the costs associated with the actuarial services necessary to estimate and/or calculate the amount payable on a straight-life basis over the lifetime of the Alternate Payee. The actuarial charge, which is currently set at \$400, must be paid to COPERS prior to each calculation of the Alternate Payee's single life benefit. The amount of the actuarial charge is subject to change.
  - d. If the Member is married at the time the DRO is approved by COPERS and the Member's spouse does not agree to an actuarial reduction of potential future benefits, payments to the Alternate Payee shall be structured in accordance with paragraph 2 above.
  - e. If a Member marries after the approval of a DRO by COPERS, neither the Member nor the Member's spouse shall have the right to challenge the previously approved DRO on the grounds that the spouse did not consent to the single life annuity calculation for the Alternate Payee.
4. All COPERS retirement benefits awarded to an alternate payee which are paid over the life of the member as described in paragraphs "2" and "3", above, are devisable to the heirs of the alternate payee in the event the alternate payee predeceases the member, unless the DRO contains the following provision:

- a. All retirement benefits awarded to the alternate payee shall be paid over the life of the member. In the event the alternate payee predeceases the member all benefit payments otherwise payable to the alternate payee shall revert to member and shall not be devisable to the heirs of alternate payee. all benefit payments cease upon member's death.
5. Under no circumstances shall the combined monthly benefit amounts paid to the Member and Alternate Payee exceed the amount otherwise payable to the Member under COPERS.
6. Neither an Alternate Payee nor his/her heirs are entitled to a survivor's (widow's/widower's) pension under Section 25 of the Charter.
7. A child's pension cannot be awarded to persons or for periods or in amounts different from those specified by the COPERS plan.
8. The COPERS anti-alienation provision (§ 37.1) precludes a COPERS member or Alternate Payee from assigning their rights to COPERS benefits to any third parties.
9. COPERS will not participate in the design or drafting of the allocation formula between the parties other than to verify that the DRO complies with COPERS terms and contains sufficient clarity that the formula for dividing benefits may be properly applied when benefits are due.
10. COPERS will require that provisions be contained in the DRO that specify that in the event of a conflict between the terms and conditions of the DRO and COPERS, as it currently reads or as same may be amended from time to time, COPERS will prevail over any inconsistent provision of the DRO (i.e., the divestiture provisions).
11. In the event that a party refuses to adopt COPERS' requested language for a domestic relations order, COPERS will reject the order for non-compliance with COPERS' domestic relations order requirements.

Attached hereto is a proposed domestic relations order section addressing division of COPERS benefits which may be provided to parties, or their counsel, seeking advice for DRO's dealing with COPERS.

COPERS  
Domestic Relations Orders (DRO's) Guidelines

Adopted 10/28/2009  
Revised 03/21/2013

The City of Phoenix Employees' Retirement System (COPERS) adopted the following policy concerning DRO's.

COPERS will implement stipulated and/or non-consensual domestic relations orders (DRO's) that comply with the following:

1. COPERS will affirmatively respond to DRO's that contain the following provisions:
  - a. The name and the last known mailing address (if any) of the Member and the name and mailing address of the Alternate Payee covered by the order;
  - b. The amount or percentage of the Member's benefits to be paid by COPERS to the Alternate Payee, or the manner in which such amount or percentage is to be determined;
  - c. The number of payments or period to which such order applies;
  - d. A provision specifying whether the order applies to member contributions and/or monthly pension benefits;
  - e. A provision specifying whether the Alternate Payee is entitled to future increases;
  - f. Affirmative statement that COPERS is not required to provide increased benefits (determined on the basis of actuarial value or otherwise); and
  - g. Affirmative statement that COPERS is not required to pay benefits to an Alternate Payee which are required to be paid to any other person under another court order.
2. The DRO must contain language specifying the measuring life and devisability of the alternate payee's benefits, in accordance with subparagraph (a), (b), or (c) below:
  - a. All COPERS retirement benefits awarded to an Alternate Payee shall be paid over the life of the Member and are devisable to the heirs of the Alternate Payee; or
  - b. All COPERS retirement benefits awarded to an Alternate Payee shall be paid over the life of the Alternate Payee and may therefore continue after the Member's death if:
    - i) The DRO contains a provision indicating an actuarial reduction in benefits will be required for the payment of a lifetime benefit to the Alternate Payee;



- ii) If the DRO calls for the payment of the Alternate Payee's benefit in the form of a single life annuity payable over the life of the Alternate Payee, the DRO shall state whether the actuarial reduction is assigned solely to the benefits awarded to the Alternate Payee or apportioned between the Member's benefit and the Alternate Payee's benefit. The Member and/or Alternate Payee (as determined by the parties) must pay the costs associated with the actuarial services necessary to estimate and/or calculate the amount payable on a straight-life basis over the lifetime of the Alternate Payee. The actuarial charge, which is currently set at \$400, must be paid to COPERS prior to each calculation of the Alternate Payee's single life benefit. The amount of the actuarial charge is subject to change.
  - iii) The Member's spouse, if the Member is married at the time the DRO is approved by COPERS, agrees to an actuarial reduction in potential future benefits if the Member elects a joint and survivor option (Option A Standard, Option A Pop-up, Option B Standard, Option B Pop-up or Option C pursuant to Charter § 24.1). If the Member is married at the time the DRO is approved by COPERS and the Member's spouse does not agree to an actuarial reduction of potential future benefits, payments to the Alternate Payee will be structured in accordance with paragraph (2)(a) above.
  - iv) If the Member is married at the time the DRO is approved by COPERS and the spouse consents in accordance with 2(iii) above, the actuarial reduction will be based on either the ages, at the time of the Member's retirement, of the Member and the Member's spouse, or of the Member and the Alternate Payee, whichever provides the greater actuarial reduction. If the Member is not married or the Member marries after the DRO is approved by COPERS, the actuarial reduction will be based on the ages, at the time of the Member's retirement, of the Member and the Alternate Payee.
  - v) If a Member marries after the approval of a DRO by COPERS, neither the Member nor the Member's spouse shall have the right to challenge the previously approved DRO on the grounds that the spouse did not consent to the single life annuity calculation for the Alternate Payee; or
- C. All retirement benefits awarded to the alternate payee shall be paid over the life of the member. In the event the alternate payee predeceases the member all benefit payments otherwise payable to the alternate payee shall revert to the member and shall not be devisable to the heirs of the alternate payee. All benefit payments cease upon the member's death.
3. Under no circumstances shall the combined monthly benefit amounts paid to the Member and Alternate Payee exceed the amount otherwise payable to the Member under COPERS.
  4. Neither an Alternate Payee nor his/her heirs are entitled to a survivor's (widow's/widower's) pension under Section 25 of the Charter.

5. A child's pension cannot be awarded to persons or for periods or in amounts different from those specified by COPERS.
6. The COPERS anti-alienation provision (§ 37.1) precludes a COPERS member or Alternate Payee from assigning their rights to COPERS benefits to any third parties.
7. COPERS will not participate in the design or drafting of the allocation formula between the parties other than to verify that the DRO complies with COPERS terms and contains sufficient clarity that the formula for dividing benefits may be properly applied when benefits are due.
8. COPERS will require that provisions be contained in the DRO that specify that in the event of a conflict between the terms and conditions of the DRO and COPERS, as it currently reads or as same may be amended from time to time, COPERS will prevail over any inconsistent provision of the DRO (i.e., the divestiture provisions).
9. In the event that a party refuses to adopt COPERS' requested language for a domestic relations order, COPERS will reject the order for non-compliance with COPERS' domestic relations order requirements.

Attached is a MODEL Domestic Relations Order addressing division of COPERS benefits which may be provided to parties, or their counsel, seeking information regarding the division of COPERS benefits.

CITY OF PHOENIX EMPLOYEES' RETIREMENT SYSTEM

MODEL DOMESTIC RELATIONS ORDER

[NOTE: This is a MODEL Domestic Relations Order, made available by COPERS for the convenience of COPERS Members, Alternate Payees and their attorneys. The MODEL Order must be customized to meet the individual circumstances of the parties and the parties should obtain legal advice regarding the preparation of a Domestic Relations Order.]

It is specifically intended that this Domestic Relations Order shall allocate the parties' respective interest in the defined benefit pension plan adopted by the City of Phoenix and known as the City of Phoenix Employees' Retirement System ("COPERS").

A. (Employee's Name) is the Member, and (Spouse's or Former Spouse's Name) is the Alternate Payee under COPERS. Member's social security number is *(last four digits)*\_\_\_\_ with residence at \_\_\_\_\_. Alternate Payee's social security number is *\_(last four digits)\_*\_\_\_\_\_ with residence at \_\_\_\_\_.

Each party is responsible for notifying COPERS of any change in address.

B. Member and Alternate Payee (the "Parties") were married on \_\_\_\_\_, and divorced on \_\_\_\_\_.

C. Member has been a member of COPERS from \_\_\_\_\_ until \_\_\_\_\_, and Member has accrued benefits under COPERS (subject to vesting and other restrictions).

D. The amount or percentage and the manner of determination of the benefits to be paid by COPERS to the Alternate Payee shall be as follows:

[INSERT APPROPRIATE LANGUAGE]

[Note: COPERS does not participate in the allocation process other than to demand sufficient clarity in the order upon which COPERS may calculate the benefit division if and when payable. Your attention is, however, directed to a full discussion of allocation issues in Koelsch v. Koelsch, 148 Ariz. 176, 713 P. 2d 1234 (1986); Parada v. Parada, 196 Ariz. 428, 999 P.2d 184 (2000); Snyder v. Tucson Police, 198 Ariz. 239, 8 P.3d 1153 (App. 2001); and Cooper v. Cooper, 167 Ariz. 482, 808 P.2d 1234 (App. 1991)].

E. The number of payments or period to which this order applies shall be

\_\_\_\_\_.

F. This order applies to (refunds of Member contributions and/or the division of future monthly retirement benefits).

G. The Alternate Payee (is or is not) entitled to future increases under the Pension Equalization Program (PEP) or any other future pension increases announced by COPERS, including 13th Check declarations.

[Note: Choose either Option 1 or Option 2 below for paragraph H. Option 2 has several required subparagraphs which must be included.]

[OPTION 1] H. All retirement benefits awarded to Alternate Payee shall be paid over the life of Member and are devisable to the heirs of Alternate Payee in the event that Alternate Payee predeceases Member. All benefit payments cease upon Member's death.

OR

[OPTION 2] H. Subject to the following subsections, all retirement benefits awarded to Alternate Payee shall be paid over the life of Alternate Payee and thus may continue after the Member's death. All benefit payments cease upon Alternate Payee's death.

(1) COPERS benefits payable to Member and Alternate Payee will be reduced, on an actuarial basis, to provide for a lifetime benefit to Alternate Payee.

(2) The actuarial reduction will be [CHOOSE ONE OR PROVIDE CUSTOM LANGUAGE] (assigned to Alternate Payee's benefit only) (apportioned equally between Member and Alternate Payee's benefit payments).

(3) The Parties acknowledge that an actuarial service fee must be paid to COPERS prior to the commencement of benefit payments. The actuarial service fee is required for the calculation of benefit payments over the life of the Alternate Payee. The actuarial service fee will be paid to COPERS prior to each

calculation of the Alternate Payee's single life benefit by [CHOOSE ONE OR PROVIDE CUSTOM LANGUAGE] (Member) (Alternate Payee).

[Note: Include paragraph (4) if applicable.]

(4). Member is married as of the date of this Order and the Member's current spouse has granted written consent to an actuarial reduction of potential future benefits, as evidenced by the attached DRO Spousal Consent Form.

or

[OPTION 3] H. All retirement benefits awarded to the alternate payee shall be paid over the life of the member. In the event the alternate payee predeceases the member all benefit payments otherwise payable to the alternate payee shall revert to the member and shall not be devisable to the heirs of the alternate payee. All benefit payments cease upon the member's death.

I. This Order shall not: (1) require COPERS to presently provide any type or form of benefit or any option not otherwise provided under COPERS; or (2) require COPERS to provide any future benefits or payment options contrary to the terms and conditions of COPERS or, as same may be amended from time to time, at the time any said benefits or payments are due and payable, or (3) require COPERS to make payments to an Alternate Payee which are required to be paid to another person under another Court Order.

J. Under no circumstances shall the combined monthly benefit amounts paid to Member and Alternate Payee exceed the amount otherwise payable to Member and Member's current spouse, if applicable, under COPERS.

K. The Parties acknowledge that COPERS and the administrative policies adopted by the COPERS Board (the "Policies") contain terms and conditions providing considerable variable contingencies affecting benefits payable to Member and/or Alternate Payee. It is understood and agreed by the Parties that the terms and conditions of COPERS and the Policies, as they currently exist, or as they may from time to time be amended, shall be

controlling of the interest of the Member and Alternate Payee. To the extent of any conflict between the terms and conditions of COPERS (including the Policies) and the provisions of the Order, the terms and provisions of COPERS shall control.

[END OF MODEL LANGUAGE - INSERT APPROPRIATE APPROVAL LANGUAGE.]

**CITY OF PHOENIX EMPLOYEES' RETIREMENT SYSTEM**

**DOMESTIC RELATIONS ORDER SPOUSAL CONSENT FORM – Adopted 10/28/09**

COPERS Board policy (as amended) provides that a Domestic Relations Order (DRO) may state that payment of benefits to an Alternate Payee will continue after the Member's death until the Alternate Payee's death, subject to the consent of the Member's current spouse (if any) and certain other conditions and restrictions.

If a DRO requires payment over the life of the Alternate Payee and the Member is married, the Member's current spouse must provide his or her consent to the reduction of the spouse's future benefits under COPERS. The Member's current spouse must complete this "DOMESTIC RELATIONS ORDER SPOUSAL CONSENT FORM" before any such DRO can be accepted or processed by COPERS. The language below, therefore, is an expressed agreement to and understanding of an actuarial reduction of future benefits.

**SPOUSAL CONSENT FORM – Adopted 10/28/09**

I, \_\_\_\_\_, legally married to \_\_\_\_\_ as of this date,

Spouse's Name

Member's Name

hereby acknowledge and **consent to an actuarial reduction of potential future benefits.**

I hereby release the City Retirement System, the City Retirement System Board, the City, or any of their predecessors, successors, assigns, agents, officials, officers, employees, representatives and attorneys from any and all causes of action in law or in equity, contracts, agreements, promises, claims, liability, demands, costs or expenses of any nature, fixed or contingent, that may be asserted as a result of this consent. I further understand that I will no longer have any claims against the City Retirement System, the City Retirement System Board, the City, or any of their predecessors, successors, assigns, agents, officials, officers, employees, representatives and attorneys with respect to the actuarial reduction of potential future benefits, whether based on tort, contract, express or implied, constitutional provisions, or any federal, state or local law, statute, charter, ordinance or regulation.

**I acknowledge that I have read this consent, I am fully aware of its contents and of its legal effect, that this application recites the rights I am giving up, and that this consent is made freely, without coercion, and based on my own judgment and not in reliance upon any representations or promises made by any party, other than those contained herein.**

I further understand that I have the right to discuss this document with any adviser of my choice (lawyer, accountant, tax preparer, etc.) prior to signing this consent form, and have either reviewed this document with an adviser or waived that right.

Date \_\_\_\_\_ Signature \_\_\_\_\_

State of Arizona; County of Maricopa

This foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20  
\_\_\_\_\_.

by

\_\_\_\_\_   
Consenting Spouse's Name

\_\_\_\_\_   
Form of ID

\_\_\_\_\_

Notary Public

\_\_\_\_\_

My commission expires



## POLICY MANUAL

<b>SUBJECT</b> Investment and Asset Allocation Policy	<b>POLICY NO</b> <u>154</u>

### I. Purpose of the Investment Policy Statement

The purpose of this document is to set forth the goals and objectives of the City of Phoenix Employees' Retirement System ("COPERS"), and to establish guidelines for the implementation of investment strategy.

Any revisions to this document may be made only with the approval of the COPERS Retirement Board ("Board")

The COPERS Board recognizes that a stable, well-articulated investment policy is crucial to the long-term success of COPERS. As such, the Board has developed this Investment Policy Statement with the following goals in mind:

- A. To clearly and explicitly establish the objectives and constraints that govern the investment of COPERS' assets,
- B. To establish a long-term target asset allocation with a high likelihood of meeting COPERS' objectives given the explicit constraints, and
- C. To protect the financial health of COPERS through the implementation of this stable long-term investment policy.

### II. City of Phoenix Employees' Retirement System Goals

The City of Phoenix Employees' Retirement System was established to ensure that members, retirees, and beneficiaries are provided with the benefits they have been promised by the City of Phoenix Charter.

### III. Investment Objectives

The COPERS investment strategy is designed to ensure the prudent investment of funds in such a manner as to provide real growth of assets over time while protecting the value of the assets from undue volatility or risk of loss.

- A. Risk Objectives
  1. To accept the minimum level of risk required to achieve COPERS' return objective as stated immediately below.
  2. To use diversification to minimize exposure to company and industry-specific risks in the aggregate investment portfolio.
- B. Return Objectives
  1. To achieve a rate of return in the short-term that is sufficient to meet all benefit and expense obligations.
  2. To achieve a rate of return in the long-term that:
    - a. exceeds the rate of inflation over time, thereby providing a real rate of return;
    - b. meets or exceeds the actuarial rate of return; and
    - c. helps improve the COPERS' funding status.

#### IV. Investment Constraints

##### A. Legal and Regulatory

The City of Phoenix Employees Retirement System (“COPERS”) was created by the City of Phoenix Charter, Part I, Chapter XXIV, Article II.

The general powers and fiduciary responsibilities of the COPERS Retirement Board (“Board”) are specified in Section 4.1 of the City of Phoenix Charter, which states:

“The authority and responsibility for the administration, management, and operation of the Retirement Plan and for construing and carrying into effect the provisions of this Article, except as otherwise provided in this Article, are vested in a Retirement Board.”

The Board’s duties and powers regarding the fiscal management of COPERS, including the specific investment authorities and responsibilities granted the Board, are set forth in Section 34 of the City of Phoenix Charter.

##### B. Prudence, Ethics, and Conflicts of Interest

The standard of prudence to be applied by the Board and external service providers shall be the “prudent person” rule. All participants in the investment process shall invest and manage COPERS’ funds as a prudent person would, in light of the purposes, terms, distribution requirements, and other circumstances of COPERS.

In making and implementing investment decisions, participants in the investment process have a duty to diversify COPERS’ investments unless, under the circumstances, it is prudent not to do so.

The Board, staff, investment consultant(s), and investment managers involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program or that could impair their ability to make impartial decisions. These parties are required to reveal all relationships that could create or appear to create a conflict of interest in their unbiased involvement in the investment process.

The Board members and City of Phoenix staff must also comply with the City of Phoenix Ethics and Gift Policies, set forth in Phoenix City Code Chapter 2, Article II, Sections 2-52 and 2-53.

##### C. Time Horizon

COPERS will be managed on a going-concern basis. The assets of the System will be invested with a long-term time horizon (twenty years or more), consistent with the participant demographics and the purpose of COPERS.

##### D. Liquidity

The Board intends to maintain sufficient liquidity to meet benefit payments, COPERS expenses, and capital calls. Therefore, the Board shall monitor the overall liquidity of COPERS.

E. Tax Considerations

COPERS is a tax-exempt entity. Therefore, investments and strategies will be evaluated on a basis that is indifferent to taxable status, except where the prospect of Unrelated Business Taxable Income (UBTI) is a concern.

**V. Risk and Return Considerations**

The Board accepts the risks associated with investing in the capital markets (market risks), but will minimize wherever possible those risks for which COPERS is unlikely to be compensated (non-market or diversifiable risks).

**VI. Diversification**

The COPERS Board recognizes that an important element of risk control is diversification. Therefore, investments will be allocated across multiple classes of assets, chosen in part for the expected correlation of their returns. Within each asset type, the Board will seek to distribute investments across many individual holdings, with the goal of further reducing volatility. In addition, each investment manager's guidelines will specify the largest permissible investment in any one asset and will set other diversification requirements.

**VII. Asset Allocation**

The Board recognizes that the allocation of monies to various asset classes will be the major determinant of COPERS' return and risk experience over time. Therefore, the Board will allocate investments across those asset classes that, based on historical and expected returns and risks, provide a high likelihood of meeting COPERS' investment objectives.

A. Permissible Asset Classes

Because investment in any particular asset class may or may not be consistent with the objectives of COPERS, the Board has specifically indicated in Appendix A those asset classes that may be utilized when investing COPERS' assets.

B. Expected Returns, Risks, and Correlations for Permissible Asset Classes

The risk and return behavior of COPERS will be driven primarily by the allocation of investments across asset classes. In determining the appropriate allocation, the expected return and risk behavior of each asset class and the likely interaction of various asset classes in a portfolio are to be considered.

C. Long-Term Target Allocations

Based on the investment objectives and constraints of COPERS, and the expected behavior of the permissible asset classes, the Board will specify a long-term target allocation for each class of permissible assets. These targets will be expressed as a percentage of COPERS' overall market value, surrounded by a band of permissible variation resulting from market forces.

The long-term target allocations are intended as strategic goals, not short-term imperatives. Thus, it is permissible for the overall COPERS asset allocation to deviate from the long-term target, as would likely occur during manager transitions, asset class restructurings, and other temporary changes. Deviations from targets that occur due to capital market changes are discussed below.

COPERS' target allocations for all permissible asset classes are shown in Appendix B.

D. Rebalancing

The Board recognizes that market forces or other events may move COPERS' asset allocation outside of target ranges, which would unintentionally change COPERS' risk profile. Therefore, the Board has established a rebalancing policy.

1. Rebalancing back towards target allocations must take place when target ranges are breached. Rebalancing back towards target allocations when target ranges have not been breached is also permissible.
2. Cash flows in and out of COPERS will be used to rebalance back towards asset class targets when possible.
3. If such cash flows are not sufficient to bring allocations within target range, investment staff may initiate additional cash flows, focusing on identifying those assets that can be shifted at the lowest possible risk and cost.

**VIII. Review of Investment Policy, Asset Allocation, and Performance**

A. Investment Policy

The Investment Policy Statement will be reviewed at least annually to ensure that the objectives and constraints remain relevant. However, the Board recognizes the need for a stable long-term policy for COPERS, and major changes to this policy statement will be made only when significant developments in the circumstances, objectives, or constraints of COPERS occur.

B. Asset Allocation

The asset allocation of COPERS will be reviewed on an on-going basis, and at least annually. When necessary, such reviews may result in a rebalancing of asset allocations. In general, the Board intends that COPERS will adhere to its long-term target allocations, and that major changes to these targets will be made only in response to significant developments in the circumstances, objectives, or constraints of COPERS or in the capital market opportunities.

C. Performance

1. Retirement System

The Board will evaluate the performance of COPERS relative to its objectives, its policy benchmark, and its peers. The peer benchmark will be the Public Pension Plans \$1B - \$5B universe.

2. Asset Classes

The performance of each of COPERS' asset classes will be evaluated relative to both passive benchmarks (as identified in Appendix B) and underlying active managers, where available.

3. Investment Managers

The performance of COPERS' investment managers will be evaluated relative to both passive benchmarks and underlying active managers, where available.

## **IX. Investment Costs**

The Board intends to monitor and control investment costs at every level of COPERS.

- A. Professional fees will be negotiated whenever possible.
- B. Where appropriate, passive portfolios will be used to minimize management fees and portfolio turnover.
- C. If possible, assets will be transferred in-kind during manager transitions and COPERS asset allocation restructurings to eliminate unnecessary turnover expenses.
- D. Managers will be instructed to minimize brokerage and execution costs.

## **X. Voting of Proxies**

The Board recognizes that the voting of proxies is important to the overall performance of COPERS. The Board has delegated the responsibility of voting all proxies to the investment managers. The Board expects that managers will execute all proxies in a timely fashion. Also, the Board expects the managers to provide a full accounting of all proxy votes, and upon request, a written explanation of individual voting decisions. The Board intends to review the managers' proxy voting at least annually.

## **XI. Forbidden Assets and Strategies**

Within their investment guidelines, each investment manager will be furnished with a list of asset types and investment strategies that are forbidden.

## **XII. Duties and Responsibilities**

### **A. Board of Trustees**

The Board of Trustees has the responsibility of establishing and maintaining broad policies and objectives for all aspects of COPERS' operation. The Board is responsible for prudent investment and expenditure of COPERS' assets. Specifically with regard to investments, the Board takes action on recommendations that come from its

Investment Committee, Investment Consultant(s), and staff. The Board may also originate its own agenda items.

### **B. Investment Committee**

The Board has established an Investment Committee. The responsibilities of the Investment Committee are detailed in Board Policy 3. The Board Chairperson appoints the Chairperson of the Investment Committee ("Chair").

### **C. Retirement Program Administrator**

The Retirement Program Administrator ("Administrator") is responsible for planning, organizing, and administering the COPERS operations under broad policy guidance and direction from the Board. In fulfilling investment responsibilities, the Administrator may rely heavily on the Investment Consultant(s) and Internal Staff.

### **D. Investment Staff**

The Investment Staff are City of Phoenix employees who oversee the management of the investments and report to the Administrator. The Board and the Administrator expect the Investment Staff to take a leadership role in investment management, operating with a very high

standard of care in discharging responsibilities in managing COPERS' investments. The Board expects the Investment Staff to:

1. Advise the Board and the Administrator when the Investment Staff believes action relative to investments, Policies, or implementation is required by the Board.
2. Review and monitor portfolio guidelines and propose changes to guidelines.
3. Establish and conduct an appropriate process for monitoring and reporting COPERS' investments and implementing the Board's decisions.
4. Ensure that this Policy is reflected in the investment manager agreements and/or guidelines, as appropriate.
5. Inform the Board and the Administrator of any and all matters Investment Staff believes to be sufficiently material to warrant the Board's attention.
6. Operate at all times in the best and exclusive interest of COPERS and in compliance with all applicable laws and investment Policies.

E. External Investment Consultant(s)

The External Investment Consultant(s) ("Consultant") is hired by and reports directly to the Board of Trustees. The Consultant's duty is to work with the Board, Investment Committee and its Chair, the Administrator, and Investment Staff in the management of the investment process. This includes regular meetings with the Board to provide an independent perspective on COPERS' goals, structure, performance, and managers. The Board may elect to retain one or more Consultants that specialize in specific areas of asset consulting.

F. External Investment Managers

The External Investment Managers ("Managers") are selected by, and serve at the discretion of, the Board. The Staff and Consultant will provide the Managers with explicit written directions detailing their particular assignments. They will select, buy, and sell specific securities or investments within the parameters specified by Investment Staff and Consultant and in adherence to this Investment Policy or to other policies set forth by the Board. Managers will construct and manage investment portfolios that are consistent with the investment philosophy and disciplines for which the Board hired them.

G. Custodian

The Custodian is selected by, and serves at the discretion of, the Board. The Custodian will collect income and safe keep all cash and securities, will regularly summarize these holdings, and facilitate a monthly reconciliation of accounts for Staff and Investment Consultant review. The Custodian will provide data and performance reports to the Staff and Consultant at intervals specified by COPERS' written policy or contract. In addition, a bank or trust depository arrangement will be utilized to accept and hold cash flow prior to allocating it to the Managers, and to invest such cash in liquid, interest-bearing instruments.

H. Legal Advisor

The role of the legal advisor is to perform draft document review and provide legal advice on issues, as necessary, to protect COPERS' interests. The legal advisor does not review or approve investment decisions. The legal advisor reviews business terms for proper form, legality, and Charter compliance.

I. Actuary

The Board retains an actuary for the purpose of forecasting asset and liability growth and the many complex factors included in estimating future pension costs. These factors include, but are

not limited to, interest rates, inflation, investment earnings, mortality rates, and employee turnover. These actuarial assumptions are then used to forecast uncertain future events affecting COPERS.

### **XIII. Reporting Requirements**

#### **A. Consultant Reporting**

COPERS' Consultant(s) will provide quarterly reports to the Board which, at a minimum, will review the following information about each Manager and the Total Fund:

1. Overview of the most recent quarter and year-to-date capital markets review and/or investment indicators;
2. Total Fund asset allocation;
3. Comparison of Total Fund return versus its benchmarks and a universe of applicable peers; and
4. Absolute and relative performance results by individual Managers and Total Fund compared to appropriate benchmarks.

#### **B. Investment Manager Reporting**

Each Manager will provide COPERS' Investment Staff and Consultant with a quarterly report of their activity no later than thirty (30) days after the end of each quarter. Each report must contain the following information:

1. Beginning asset value at cost and market.
2. Ending asset value at cost and market. New contributions should be separately identified. Asset listings should include appropriate information on each equity security position to include name, number of shares, dividend, yield, price to earnings ratio, cost, market, current gain or loss, and industry or sector. Debt security information should include name, position size, cost, market, coupon, maturity, rating, yield, and current gain or loss.
3. Securities sold and purchased during the quarter.
4. Quarterly, year-to-date, and since inception performance results.
5. Written discussion of the most recent quarterly results and near-term future investment strategy.
6. The Manager is to provide written notice to the Investment Staff and Consultant within ten (10) days from the date a key person is hired or terminated.

## APPENDIX A

### PERMISSIBLE ASSET CLASSES

Asset Class
U.S. Equity
Developed Market Equity (non-U.S.)
Emerging Market Equity
Private Equity Investment
Grade Bonds TIPS
High Yield Bonds
Bank Loans
Emerging Market Bonds
Real Estate Infrastructure
Natural Resources
Hedge Funds



**APPENDIX B  
ASSET ALLOCATION TARGETS**

	<b>Target</b>	<b>Range</b>	<b>Policy Benchmark (Optional)</b>
U.S. Equity	16%	11-21	Russell 3000
Developed Market Equity (non-U.S.)	9%	4-14	MSCI EAFE
Public Emerging Market Equity	8%	3-13	MSCI Emerging Markets
Private Equity	9%	4-14	Russell 3000 + 2%
Investment Grade Bonds	15%	10-20	Barclays Aggregate
TIPS	7%	2-12	Barclays U.S. TIPS
High Yield Bonds	5%	0-10	Barclays High Yield
Bank Loans	3%	0-6	CSFB Leveraged Loan
Emerging Market Bonds	3%	0-6	JPM EMBI Global Diversified
Real Estate	12%	7-17	NCREIF ODCE
Infrastructure	4%	0-8	CPI + 3%
Natural Resources	4%	0-8	S&P Global Natural Resources
Hedge Funds	5%	0-10	HFRI Fund Weighted Composite Index
Cash	0%	0-5	NA

<b>SUBJECT</b> Adoption of Actuarial Equivalency Factors	<b>POLICY NO</b> <u>155</u>
<b>BRIEF SUMMARY</b> This policy sets the actuarial assumptions used to determine actuarial equivalency between the different retirement options.	

Policy: Whereas, Sec. 10 of the Retirement Law of 1953 requires the Retirement Board to adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are required in the operation of the Retirement Plan; and

Whereas, it is necessary to designate mortality tables and interest rates for use in calculating pension amounts under the optional forms of payment provided for in Sec. 24 of the Retirement Law of 1953; and

Whereas, the actuary employed by the Board has made a recommendation as to an appropriate mortality table and interest rates;

Be It Resolved, that for the purpose of calculating pension amounts under the optional forms of payment provided for in Sec. 24 of the Retirement Law of 1953, the mortality and interest rate assumptions shall be as follows:

- (1) For retirements with an effective date after July 1, 2001 and prior to January 1, 2013 continuation of the 1971 Group Annuity Mortality Table projected to 2000 (90% male/10% female set back 6 years) and 7.5% annual compound interest;
- (2) For retirements with an effective date after December 31, 2012 and prior to March 1, 2016 RP-2000 Combined Health Mortality Table (Blended 60% male and 40% female) and 7.5% annual compound interest;
- (3) For retirements with an effective date after February 29, 2016 and prior to January 1, 2021:
  - (a) For regular retirements:
    - a. Member and beneficiary mortality: CalPERS Healthy Annuitant Tables without Scale BB projection multiplied by 1.019 for males and 1.061 for females, generationally projected from 2009 using scale MP-2015, and blended 60% male and 40% female. Factors assume member and beneficiary attain specified ages in 2018.
    - b. Interest: 7.5% annual compound interest
    - c. COLA: Tier 1 and 2 – 1.5% for all options, Tier 3 – 3% for options with a COLA
  - (b) For disabled retirements,
    - a. Member mortality: SOA RP-2014 Disabled Retiree Tables multiplied by 0.984 for males and 1.038 for females,

generationally projected from 2006 using scale MP-2015, and blended 60% male and 40% female. Factors assume member attains specified age in 2018.

- b. Beneficiary mortality: CalPERS Healthy Annuitant Tables without Scale BB projection multiplied by 1.019 for males and 1.061 for females, generationally projected from 2009 using scale MP-2015, and blended 60% male and 40% female. Factors assume beneficiary attains specified age in 2018.
- c. Interest: 7.5% annual compound interest
- d. COLA: Tier 1 and 2 – 1.5% for all options, Tier 3 – 3% for options with a COLA

Be it Further Resolved, that the Board and the actuary shall review these assumptions and the actuary will provide a new recommendation as to these assumptions no later than upon the completion of an experience study following the close of the June 30, 2020 fiscal year.

<b>SUBJECT</b> Hearings on Appeal - Procedure	<b>POLICY NO</b> <u>156</u>
<b>BRIEF SUMMARY</b> Only medical evidence in the original determination will be considered - closed sessions in discussion of compensation - semi-informal and 1 hour and 15 minutes  Possible outcomes: a) confirm DAC b) reverse DAC c) remand to DAC with instructions - minutes/records confidential	

Policy: A. Evidence

- (1) The Board shall be provided with all medical evidence considered by the Disability Assessment Committee (DAC) in their original determination subject of appeal under Section 23.2, Chapter XXIV, City Charter.
- (2) Additional written evidence can be submitted by appellant at least five (5) working days before the hearing so that such documentation is made available to the Board with the agenda packet.
- (3) No oral testimony shall be permitted other than that of the member or his/her representative unless the Board has particular questions for a party that may be present at the hearing.

B. Closed Sessions

Sessions may be closed to the public on the basis of discussion of compensation.

C. General Provisions

- (1) Appeal hearings will be conducted in a semi-informal atmosphere in order to facilitate appellants who choose to represent themselves.
- (2) Hearings are intended to be fact-finding and not adversarial in nature.
- (3) The Chairman of the DAC or his/her representative shall be present at the hearings for purposes of providing input as to the original determination subject of appeal.
- (4) The board chairman or presiding trustee will control the flow of the discussions and deliberations.
- (5) Approximately one (1) hour and 15 minutes will be allocated to each hearing unless the chairman or presiding trustee rules differently for valid reasons.

D. Possible Outcomes

- (1) After consideration of all evidence and arguments the board may:
  - (a) Confirm the decision of the DAC denying benefits, or
  - (b) Reverse the DAC decision by granting the disability claim, or
  - (c) Remand the case to the DAC with specific instructions.
- (2) The Board has the authority to continue disability payments during appeal if compelling evidence presented by the appellant so justifies.

E. Minutes/Records

- (1) Confidential minutes of the closed sessions shall be maintained by the board in accordance with applicable state statutes and city ordinances.
- (2) The disability appeal proceedings may be taped. Such tapes, when available, will be maintained confidential.

F. Questions

Any questions regarding these procedures shall be addressed to COPERS' Executive Secretary.

<b>SUBJECT</b> Investments - Proxy Voting Guidelines	<b>POLICY NO</b> <u>157</u>
<b>BRIEF SUMMARY</b> All proxies voted by managers in best interest of Plan...Guidelines provided...report required.	

Policy:

I. Introduction

The City of Phoenix Employees' Retirement System (COPERS) recognizes that it is sound practice to adopt proxy voting guidelines consistent with the conclusions adopted by the U.S. Department of Labor (DOL) for ERISA (Employee Retirement Income Security Act) plans. The foundation of the position held by DOL is that the right to vote proxy has an economic value and is therefore a plan asset. Like all other assets, proxies are subject to the prudent administration of COPERS Board as fiduciaries of the Plan.

II. General Policy

It is COPERS' Board policy to vote every proxy. The Board reserves its right to vote proxies either directly or through a person or persons specifically designated from time to time to do so under the guidance of the Investment Committee. Since the COPERS Board has retained domestic and global equity managers with full discretion, they are hereby designated to vote COPERS' proxies (relative to the portion of the portfolio they manage) in accordance with the Board's guidelines as amended from time to time.

III. Proxy Voting Record Maintained

It shall be COPERS policy to maintain an electronic record and documentation of how each proxy is voted. Such report shall be presented to COPERS staff on a quarterly basis by the managers designated to vote proxies on behalf of COPERS.

IV. Guidelines

A. All proxies shall be voted in the best interest of the Plan participants and consistent with the "Fiduciary Proxy Guidelines for Public Plan Sponsors and their Investment Managers" or similar document as promulgated, and amended, by a professional proxy voting service as the Board may from time to time consider. These guidelines will be reviewed annually by the Board.

B. Miscellaneous

Should the interest of the Plan be best served by a vote different from the above guidelines, such proxy should be brought to the attention of the COPERS Investment Committee by the investment managers for final determination. If time is of the essence the proxy vote can be cast by COPERS investment managers followed by a detailed report to the COPERS staff, including the reasons and

analysis for the vote different from COPERS policy and guidelines. A quarterly exception report will be prepared by COPERS staff and presented to the COPERS Investment Committee. The report will describe any proxy votes inconsistent with policy guidelines.

- C. The Board has considered the cost effectiveness and economic value of the proxy vote approach utilized.

<b>SUBJECT</b> Policies of the Disability Assessment Committee (DAC)	<b>POLICY NO</b> <u>158</u>

Policy:

A. Introduction

The Disability Assessment Committee is created by Chapter 24, Section 5.5 of the City Charter. The responsibilities of the Committee are spelled out in Sections 21, 22, and 23 of said Chapter and can be summarized as follows:

- ~ Determine entitlement to disability retirement benefits in the case of new applicants with 10 or more years of service.
- ~ Determine entitlement to disability benefits in the case of existing disability beneficiaries who are subject to periodic medical reviews.
- ~ If a disability applicant has less than 10 years of service and alleges to be totally and permanently disabled as a natural and proximate result of personal injury or disease arising out of and in the course of his/her actual performance of duty in the employ of the City, the Committee would be responsible for such finding in which case the 10 years requirement shall be waived.

B. Disability Test Requirements under Chapter 24 of the City Charter

1. Applicants with more than 10 years or existing disability beneficiaries:

- a) Disabling condition must be total and,
- b) Disabling condition must be permanent and,
- c) Disabling condition must result in the member's inability to perform in the service of the City and/or termination of employment.

2. Applicants with less than 10 years alleging a job related injury or disease:

- a) There must be a personal injury or disease arising out of and in the course of the applicant's performance of duty in the employ of the City and,
- b) Tests under B.1.a) b) and c) apply and,
- c) Disabling condition must be the natural result of a personal injury or disease described under B.2.a) and,
- d) Disabling condition must be the proximate result of a personal injury or disease described under B.2.a).



C. Disability Assessment Committee Members and Length of Term

The COPERS law establishes the composition of the DAC under Section 5.5, as follows: two ex-officio members, two employee members, and a citizen member.

1. Initially, the DAC Committee will determine, by lot, which appointed member will serve one year, which will serve two years, and which will serve three years (this is to prevent three DAC vacancies at the same time).
2. The length of DAC appointed members' term will be three years consistent with the Retirement Board employee members.
3. Members can be reappointed by the COPERS Board to serve consecutive terms of three years.
4. DAC members must take an oath of office and be sworn in at the City Clerk's office (24 hours prior to the first DAC meeting).
5. Every effort shall be made for the Citizen member to be a medical doctor.
6. Because the "Safety Administrator" position will no longer be filled, a Deputy Human Resources Director or Assistant Human Resources Director will serve in the role as an ex-officio member on the Disability Assessment Committee. The Human Resources Director will recommend the Deputy Human Resources Director or Assistant Human Resources Director to serve on the DAC and the Board will approve the appointment.

D. Meetings of Disability Assessment Committee

1. Disability Assessment Committee will meet as often as necessary as determined by the cases available for review.
2. Disability Assessment Committee shall normally meet at the Retirement Systems Office.
3. The Disability Assessment Committee is covered under the Arizona Open Meeting Law and must comply with applicable statutes. Agendas shall be posted with City Clerk 24 hours prior to meeting. All meetings will be recorded and appropriate minutes produced.
4. The Retirement Administrator shall be the Executive Secretary of the Committee.
5. The Committee shall select a chairperson from its members, at the first regular meeting of a fiscal year for a three-year term.

E. Disability Process

The procedures and forms for granting total and permanent disability are as follows:

1. It is encouraged that a disability applicant contact the Human Resources Department Placement Section in order to ensure proper coordination of remedies (i.e., Long Term Disability (LTD); workmen's compensation etc.) that may be available to the applicant, prior to filing with COPERS.
2. Application for disability retirement is made at the Retirement Office through Form 1 - "APPLICATION FOR DISABILITY RETIREMENT" (Exhibit A). The Human Resources Department (Benefits) will be notified of the application through form provided (Exhibit B). Disability applicants must submit a form DIS.3 "MEDICAL RECORDS AUTHORIZATION" (Exhibit C).
3. The applicant is given the "ATTENDING PHYSICIAN'S STATEMENT OF DISABILITY" Form 61-48D (Exhibit D) with a pre-addressed envelope. The applicant is responsible for the timely completion of said form by the attending physician and would bear any costs associated with the completion of such form.
4. Before placing an application on the Committee's agenda, the Retirement staff must verify basic eligibility standards (service credit, membership, etc.), and must have in file a properly completed Attending Physician's Statement of Disability.
5. The following Committee process will apply in regards to a new claim presented for consideration:
  - a) Any new application re-filed after a prior denial and expiration of appeal time may be considered only if new medical evidence is attached.
  - b) Committee may determine an applicant to have a total and permanent disability based on documentation provided in the attending physician's statement of disability or other medical records.
  - c) Committee may review the application for determination as to which medical specialist (or group) is to examine the applicant and report back to the committee.
  - d) Retirement Systems Office will set up and coordinate appointments, notify applicant and send letter of verification of medical services requested. Fees charged by medical specialist(s) will be paid by COPERS; however, if applicants do not comply with the cancellation notice required by the medical specialist then applicants are responsible for any applicable "no show" fee.
  - e) If the applicant does not report for the examination as required in 5 c) the committee may deny benefits
  - f) Retirement Systems Office will provide to selected medical specialist(s) copy of:
    - (1) Completed "ATTENDING PHYSICIAN'S STATEMENT OF DISABILITY" and available medical records supplied by the applicant.
    - (2) Form 61-7D "PHYSICAL LIMITATION FORM" (Exhibit E).

- (3) Applicable excerpts of the Retirement Law.
- g) Medical reports from specialist(s) must indicate clearly whether applicant is totally and permanently disabled for performance in the service of the City, and, if applicable, whether the disabling condition is job related. If the medical specialist is to assess mental or psychological issues, he will be requested to indicate if the report should be provided to the applicant (Exhibit F).
- h) Once the final medical specialist report is received, the case is placed on Disability Assessment Committee agenda for appropriate action.
- (1) If the doctor's report to the DAC suggests the possibility of denial then the applicant should be informed of this in case he/she wishes to submit additional medical evidence before the DAC final action (Exhibit G). The Human Resources Department shall provide evidence (to the DAC) as to what positions within the City, if any, the applicant should be able to perform, given his/her medical condition, experience, training, education, and/or need for reasonable accommodations. The attached form (Exhibit J) shall be used by the Human Resources Department to convey the assessment herein required.
- (2) If applicant is not able to perform in service of the City, and found to be totally and permanently disabled as determined by the Disability Assessment Committee, the application for disability retirement will be approved and a notice to the effect shall be sent to the applicant, Human Resources Department (Benefits), and his/her department.
- (3) If applicant is able to perform in the service of the City but not in capacity of current job classification, the application is denied and the case is referred to Human Resources Department Placement Section, and to the applicant's department for appropriate action and coordination. A notice of denial shall be sent to the applicant in compliance with applicable Charter provisions.
- (4) In the event of approval of disability benefits applicants are required to complete Form 3 - "DISABILITY RETIREMENT" (Exhibit H). This form provides for selection of pension options, survivor and beneficiary designation, and also contains important health insurance information.
- (5) The disability retirement date for an applicant approved for benefits shall be the date of application submitted by the member or his department head, or the approval date or, if later, the date the member has exhausted any sick leave, vacation time and compensation time standing to the member's credit.
- (6) If applicant fails to complete the retirement application process within 90 days, the approval for disability shall be rescinded. The applicant shall be given the opportunity to reapply for a disability benefit at a later time.

6. Continuation of total and permanent disability benefits.
- a) The Retirement staff will, at least 90 days prior to reexamination, request the disability beneficiary submit an attending physician's statement of disability within 45 days.
  - b) The Retirement staff presents to the Committee the names of disability beneficiaries subject to reexamination.
  - c) Steps 5.b) to e) are followed except that all medical reports on file will be submitted to the specialist in addition to the items under 5.f).
  - d) If the attending physician's statement of disability is not supplied to the committee within 45 days, the committee may require the disability beneficiary be examined by a medical specialist (or group) selected by the Retirement Systems office. The committee authorizes the retirement systems office to select the medical specialist (or group) and arrange for the examination. The medical specialist (or group) will report back to the committee.
  - e) If the disability beneficiary does not report for the examination as required in 6 d) the committee may discontinue benefits.
  - f) Medical reports from specialist(s) must indicate clearly whether disability beneficiary is totally and permanently disabled for performance in the service of the City. If the medical specialist is to assess mental or psychological issues, he will be requested to indicate if the report should be provided to the applicant.
  - g) If the doctor's report to the DAC suggests the possibility of denial then the disability beneficiary should be informed of this in case he/she wishes to submit additional medical evidence before the DAC final action.
  - h) If disability beneficiary is not able to perform in service of the city, and found to be totally and permanently disabled as determined by the Disability Assessment Committee, continuation of disability retirement will be approved and a notice to the effect shall be sent to the applicant.
  - i) If disability beneficiary is able to perform in the service of the city but not in capacity of his/her job classification, the application is denied and the case is referred to Human Resources Department placement section and to the disability beneficiary's department for appropriate action and coordination. A notice of denial shall be sent to the disability beneficiary in compliance with applicable charter provisions.
  - j) The Committee may waive future medical reviews in the event of clearly permanent and irreversible medical conditions.
  - k) Disability beneficiaries will not be reexamined after age 60 or when their age and years of service equal 80 (rule of 80) (for Tier 1 members) or 87 (rule of 87) (for Tier 2 and 3 members).

- l) Except as provided in 6 j) and 6 k), disability beneficiaries will be subject to reexamination once a year for the first 5 years, thereafter every two (2) years.
- 7. Appeals of denied claims for disability benefits.

In the event that any claim for benefits is denied, claimant shall be notified of such denial in writing by the Executive Secretary. The notice advising of the denial shall be in strict compliance with Chapter 24, Section 23 of the City Charter.

- 8. This "Policies and Procedures" document and any future amendments shall be subject to review and approval by the City of Phoenix Employees' Retirement System Board.

F. Quorum/Vote

- 1. Three (3) committee members shall constitute a quorum at any committee meeting.
- 2. At least three (3) concurring votes shall be necessary for a decision of the committee at any committee meeting.

- G. "The provisions of this policy, except those covered by the City Charter, may be revised by the COPERS Board at any time and its discretion, and any such revisions shall apply to all members, including those hired before the effective date of such revisions, so long as they have not made application for benefits under this policy before it was revised. Members having made application for benefits under a version of this policy in effect at a particular time shall be entitled to rely upon that version."

<b>SUBJECT</b> Status of City employees while on Long Term Disability (LTD) benefits, administered by the City Human Resources Department	<b>POLICY NO</b> <a href="#">160</a>
<b>BRIEF SUMMARY</b> "Employees receiving LTD payments, or eligible for such payments had it not been for the complete offset due to other income, must be considered inactive employees...Credited service, as defined by the Retirement Law in Section 2.8, shall not include any time spent as an inactive employee under LTD status, regardless of the amount of LTD offset, if any.	

Policy: The City of Phoenix Employees' Retirement Systems (COPERS) Board recognizes City employees may become eligible for Long Term Disability (LTD) benefits administered by the Human Resources Department. These benefits are generally based on 66 2/3 of the individual's pay. LTD benefits are subject to offset in the event of benefits payable by the COPERS, social security, or other benefits.

LTD benefits for physical disabilities can continue to age 80, 75, or to age 70 depending on the employee's classification and effective date of LTD payments. LTD payments for mental conditions, functional nervous disorders, and substance abuse cannot exceed more than two years.

The City Human Resources Department has determined employees on LTD status are to be considered "inactive employees" unless they resign or retire. This policy is intended to clarify the status of LTD eligible employees, for purposes of retirement benefits under the Retirement Law.

- A. Employees receiving LTD payments, or eligible for such payments had it not been for the complete offset due to other income, must be considered inactive employees.
  - 1. Eligible Retirement benefits while employees are LTD recipients, or LTD eligible under complete offset:
    - a) Voluntary retirement benefits at age 60 if ten (10) or more years of credited service; 62 if five (5) or more years of credited service, as provided by Section 17.1.
    - b) "Rule of 80" retirement for a Tier 1 member and "Rule of 87" retirement for a Tier 2 or 3 member as provided by Section 17.3.
    - c) Survivor pension, if more than 10 years of credited service, as provided by Section 25.2.
  - 2. Credited service, as defined by the Retirement Law in Section 2.8, shall not include any time spent as an inactive employee under LTD status, regardless of the amount of LTD offset, if any.

B. Application for disability retirement by (LTD) inactive employees.

The Employee Benefits Office of the Human Resources Department requires LTD applicants file for disability retirement, as part of the LTD process.

<b>SUBJECT</b> Policy/Procedures For Determining Whether a Disability Applicant's Condition is or is Not Duty Related	<b>POLICY NO</b> <u>161</u>
<b>BRIEF SUMMARY</b> <p>"It shall be the DAC's policy to ordinarily adopt the findings of the City's W/C program, concerning whether an individual's condition is or is not duty related. DAC members, however, reserve the right to issue findings different from the W/C, in the event of compelling and valid reasons."  Accident report required (process spelled out if no W/C determination exists).</p>	

Policy: The DAC is satisfied the City of Phoenix' Workmen's Compensation (W/C) process is very comprehensive, fair, and equitable. It shall be the DAC's policy to ordinarily adopt the findings of the City's W/C program, concerning whether an individual's condition is or is not duty related. DAC members, however, reserve the right to issue findings different from the W/C, in the event of compelling and valid reasons.

A. No record of W/C determination or appeal of W/C denial

If no W/C determination exists as to the duty relatedness of a condition, or if a W/C denial became final for lack of member appeal, the DAC will proceed as follows:

1. Require the applicant to file for a W/C review or determination through the State Compensation Fund or Industrial Commission as applicable.
2. If no decision is made by the State Compensation Fund, due to statute of limitations or other reasons, the DAC will obtain a report and recommendation from an independent source.
3. The DAC will review the recommendations of the independent source and proceed accordingly.

B. Accident Report Required

Duty disability applicants must submit a copy of an accident report(s) if one exists. Otherwise, applicant must submit a detailed description of the accident or incident which caused the disabling condition subject of the application, including the following:

1. nature of accident or incident
2. date, time, place, and witnesses, if any
3. whether the accident occurred under an unusual condition of employment (if yes, explanation necessary)
4. whether the strain suffered as a result of the accident or incident was beyond that normally experienced by other employees (if yes, explanation necessary)



<b>SUBJECT</b> Certain Fringe Benefits Not to be Included in Compensation For Retirement Purposes	<b>POLICY NO</b> <a href="#">163</a>
<b>BRIEF SUMMARY</b> The City of Phoenix offers fringe benefits to its employees. These benefits may vary between employee groups and may change from time to time. This Policy identifies fringe benefits not to be included as compensation for retirement purposes. The Board may add, subtract or otherwise amend this policy as necessary.	

The following fringe benefits shall not be included in compensation for Retirement purposes:

Fringe Benefit	Definition	Board Policy	Board action date
1. Sick leave hours pay-out in case of duty death	Designated beneficiaries of employees who die in the line of duty will be paid all accumulated sick hours on the books at the time of the employee's death.	Exclude	10/26/94
2. Health Insurance Supplemental allowance	Employees in classifications 320 and below, who are enrolled in the City health insurance plans, will receive a health insurance supplemental allowance of \$66.50 in August and February.	Exclude	10/26/94

<b>SUBJECT</b> Board Support for City Manager and Council to Maintain a 100% Funded Status for COPERS	<b>POLICY NO</b> <a href="#">164</a>
<b>BRIEF SUMMARY</b> Board encourages City Manager and Council to continue to support a 100% funded status for COPERS	

Policy: The COPERS Board endorses the action of the Phoenix City Council to include full funding of the retirement system in the 1995-96 Annual Budget, and strongly urges the City Manager and City Council to maintain the policy of full funding of the retirement system.

<b>SUBJECT</b> Service Credit For Temporary Full Time Position (or Part Time Position) Prior to 1/1/82	<b>POLICY NO</b> <u>165</u>
<b>BRIEF SUMMARY</b> Retirement System To Allow Service Credit For Full-Time Temporary City Employment (Or Less Than Full Time Positions Under Certain Circumstances) Prior To January 1, 1982	

Policy: The COPERS Board recognizes their recent action on temporary City employment constitutes a change in past practice which may affect other members of COPERS. This policy is intended to provide guidance as to the need to communicate the new procedures to interested members, and to provide for the handling of specific situations.

I. Dissemination of new policy on temporary City employment.

A. Active members

1. The Administrator will issue a memorandum to all Department and Payroll/Personnel Clerks explaining the new Board policy.
2. The Administrator will coordinate the publication of the new policy in the City's Info newsletter.
3. COPERS routine counseling procedures will include the reminder that "full time" (and less than full time positions under certain circumstances) temporary City employment, prior to January 1, 1982 can be added to the employees' retirement service credits after payment of necessary member contributions and interest.
4. Temporary City employment commenced after January 1, 1982 shall not be subject to retirement service credit whether full-time or part-time.

B. Terminated/Inactive employees or members

1. Terminated/Inactive employees requests shall be evaluated by the Board on a case by case basis.

2. Rehired employees are normally notified of their rights to "buy-back" prior service credits under certain circumstances. The Administrator will modify the notice or letter to reflect the possibility of obtaining credited service for full-time temporary (or eligible "less than full-time") employment prior to January 1982.

II. Method of payment for obtaining Retirement Service Credit for full time temporary City Employment (or eligible "less than full-time") prior to January 1982.

A. Contributions and Interest.

Contributions otherwise payable during the period of eligible full-time temporary (or eligible "less than full-time") City Employment (prior to January 1982) shall be paid to COPERS, including compound interest in effect for "buy-backs" of prior service credits.

B. Payment Plan.

Payments under II.A above will be subject to the same payment plans and restrictions as "buy-back" of prior service credits.

C. Part-time employment.

Employees hired under a "part-time" or "part-time temporary" classification, prior to January 1, 1982, can obtain retirement service credit if they can demonstrate they worked full time (40 hours per week) continuously, for at least 12 consecutive months, in spite of their non-full-time classification. Less than 12 consecutive months of full time work can be considered if the employee can demonstrate he/she moved into a full-time regular position (directly from the part-time, or temporary, classification) prior to 1982. Should evidence suggest less than full time work, after the eligible full time consecutive months, then such time will be credited, for retirement purposes, as a fraction of a year, as appropriate.

Recognizing there are data limitations for records created prior to 1982, the Board has discretion regarding the 40 hour per week requirement to make an exception when the applicant appears to be short approximately one day per month and to consider any additional documentation provided by the applicant which could indicate eligibility.

D. Total/Partial Service Credit.

Payment of a portion of member contributions plus interest will provide partial service credit.

- E. Payment of an application fee of \$95.00, via check or money order payable to the City of Phoenix Treasurer, is required. The fee will be refunded to the member if the purchase is denied. (Effective October 1, 2010). Prior to Board action, an applicant may request the process of the service purchase be suspended. The \$95 fee will subsequently apply to a reinitiated request of the suspended service purchase. The suspension or cancellation of a request will not result in a refund of the application fee.

<b>SUBJECT</b> Board Policy on Insurable Interest For Purposes of Options A & B, Sec. 24.1	<b>POLICY NO</b> <u>166</u>
<b>BRIEF SUMMARY</b> Establishes presumption of, and procedure for determination of, insurable interest	

Policy: Sections 24.1(d)(e)(f) and (g) provide for the selection of "Pension Options" to continue survivorship pension payments (100% or 50%) to a person nominated by the retiree. Eligible option nominees are those "having an insurable interest" in the retiree's life. This policy is intended to define insurable interest for purposes of 24.1.

I. Presumptive Insurable Interest

A. Spouse/Domestic Partner/Blood Relatives - The following are presumed to have an insurable interest on a retiree's life for purposes of 24.1.

1. Spouse
2. Domestic Partner (Requires adequate indicia of partnership through completion of "Affidavit of Domestic Partnership") (Exhibit A)
3. Parent
4. Child
5. Sibling
6. Grandparent
7. Grandchild

B. Non-blood relatives - The following non-blood relatives are presumed to have an insurable interest on a retiree's life for purposes of 24.1.

1. Father/Mother-in-law
2. Stepchild
3. Brother/Sister-in-law
4. Fiancé/Fiancée
5. Former Spouse (Provided that designation is consistent with Board Policy No. 153 on Domestic Relations Orders)

II. Board determination of insurable interest when not presumptive.

Other individuals, proposed as survivorship option beneficiaries under Sec. 24.1, will be reviewed by the COPERS Board, on a case by case basis. Consideration will be given to the source of substantial interest, the protection of benefits against execution under 37.1, and the free and voluntary nomination by the retiree.

<b>SUBJECT</b> Unpublished Legal Opinions Received by COPERS Are Considered Confidential Under Attorney Client Privilege. Procedure For Waiver of Confidentiality And Public Release	<b>POLICY NO</b> <u>167</u>
<b>BRIEF SUMMARY</b> Legal Review Committee to discuss legal opinions in closed session and recommend to the Board which opinions can be considered public and which should be maintained as confidential.	

Policy: The COPERS Board receives, from time to time, legal opinions intended to provide guidance to the Board and/or the Administrator regarding certain matters. Published legal opinions are considered public information. Unpublished legal memoranda and opinions are intended to provide advice to the COPERS Board and/or the Administrator. These are protected from public disclosure under Arizona Statutes, as client-attorney privileged information. The COPERS Board, however, can waive the confidentiality of these documents.

The COPERS Board feels it is necessary to establish a process for identifying which unpublished legal memoranda and opinions can be subject to public release, under the Board's waiver of confidentiality, as follows:

The Legal Review Committee (LRC), along with the Board's counsel, shall examine the documents in closed sessions.

The LRC will recommend to the full Board which legal memoranda and opinions can be subject to waiver of confidentiality and which must be maintained confidential.

The COPERS Board will consider all confidential legal memoranda and opinions, in consultation with legal counsel, in closed sessions.



<b>SUBJECT</b> Status of City Employees While in a City of Phoenix Job-Share Position or Standard Part-Time Employees in a Deferred Status	<b>POLICY NO</b> <a href="#">168</a>
<b>BRIEF SUMMARY</b> The City of Phoenix provides for job share positions, wherein a full time position, otherwise eligible for COPERS membership, is filled by two individuals, typically working 50/50 (or other ratio of hours). Individuals in job-share positions are not covered by Civil Service or allowed membership in COPERS.	

Policy: The COPERS Board recognizes the City of Phoenix job-share positions are not intended to be covered by Civil Service or COPERS.

It is the Board's policy that active members of COPERS, who accept a job-share position shall become inactive members and shall not be considered eligible for retirement benefits (such as retirement, deferred benefits, and refunds) until after they subsequently resign or terminate employment. Benefits otherwise available to active employees shall not apply to employees in job-share positions, unless they become members of COPERS and meet applicable eligibility requirements.

Deferred members who become standard part-time City of Phoenix employees, as opposed to job share eligible employees, are able to receive a pension benefit when the requirements of eligibility are met.

<b>SUBJECT</b> Source of Consumer Price Index Used in Calculation of Post-Retirement Distribution (13 <sup>th</sup> Check) And Post-Retirement Pension Benefits Equalization Program (PEP).	<b>POLICY NO</b> <u>171</u>

Policy: The Phoenix-Mesa metro area Consumer Price Index for all Urban Consumers (CPI-U) developed by the Bureau of Labor Statistics of the U.S. Department of Labor will be used in the calculation of post-retirement distribution (13<sup>th</sup> check) and post-retirement pension benefits equalization program (PEP).

<b>SUBJECT</b> Definition of Unused Sick Leave as Referenced in City Charter §14.4	<b>POLICY NO</b> <a href="#">173</a>

Policy: City Charter §14.4 states “a member shall be granted unused sick leave credit service for the period of unused sick leave standing to the member’s credit at time of retirement, death or termination of City employment.”

Unused sick leave shall be defined, for the purposes of this policy, as the number of hours available after the member has received any eligible payment for his/her unused sick leave credits as authorized by the City.

<b>SUBJECT</b> Excess Benefit Arrangement	<b>POLICY NO</b> <a href="#">174</a>

**I. Introduction**

The City of Phoenix Employees' Retirement Board (the "Board"), as the administrator of the City of Phoenix Employees' Retirement System ("COPERS"), hereby adopts a "qualified governmental excess benefit arrangement" in accordance with Section 415(m) of the Internal Revenue Code (the "Code"). The COPERS qualified excess benefit arrangement (the "EBA") shall be effective as of January 1, 2003 and shall be documented by, and administered in accordance with, this Board Policy No. 174.

**II. Background**

COPERS provides retirement benefits to its participants pursuant to a benefit formula. The COPERS benefit formula is used to calculate benefits based on each participant's age, compensation history and credited service. Because of the statutory limitation on benefits set forth in Section 415(b) of the Code, certain COPERS participants do not receive their full benefits under COPERS. Congress has recognized that governmental employers who sponsor tax-qualified retirement plans have constitutional and contractual obligations to provide full retirement benefits to their employees, regardless of the limitations of Code Section 415(b). Thus, pursuant to Code Section 415(m), a governmental plan may include a qualified excess benefit arrangement that allows the payment of the full base benefit to plan participants, without jeopardizing the tax-qualified status of the governmental plan.

**III. Purpose**

The EBA is designed to provide each COPERS participant with the portion of his or her COPERS retirement benefit that is eliminated by Code Section 415(b). The EBA shall not provide any benefits that are not otherwise payable pursuant to the terms of COPERS.

**IV. Eligibility Provisions**

All COPERS participants who are entitled to receive retirement benefits under COPERS which would exceed the limitations of Code Section 415(b)(1) are required to participate in the EBA. To be entitled to receive retirement benefits, a COPERS participant must be fully vested in his or her benefit and must have satisfied the retirement eligibility provisions of COPERS.

If a COPERS participant is eligible to receive retirement benefits that are expected to or do exceed the Code Section 415(b) limitations, that participant shall be enrolled in the EBA automatically. The enrollment shall be effective as of the date on which it is determined that the benefits accrued by the participant are expected to exceed, or do exceed, the limitations of Code Section 415(b)(1).

It is anticipated that most individuals enrolled in the EBA will be enrolled upon

retirement, but active employees and terminated vested participants may be enrolled if they have satisfied all of the retirement eligibility conditions under COPERS.

In the event that the Code Section 415(b) limitations are increased and, as a result of such increase, an EBA participant's entire benefit may be or is expected to be paid solely through the COPERS program, the EBA participant shall automatically become ineligible to participate in the EBA. The former EBA participant may be reenrolled in the EBA at a later date if necessary.

#### **V. Description of Benefit**

The benefit provided by the EBA to a COPERS participant shall equal the "excess benefit" of the participant. The "excess benefit" of a participant shall equal the difference between (i) the annual benefit that would be payable to the participant pursuant to the terms of COPERS without application of the Code Section 415(b) limitations, and (ii) the annual benefit actually paid or payable to the participant pursuant to the terms of COPERS and calculated in accordance with the limitations of Code Section 415(b). No benefit shall be provided with respect to a COPERS benefit paid prior to the effective date of this Board Policy.

The excess benefit calculation set forth above shall be performed as of the effective date of this Policy, on an annual basis thereafter, and upon retirement of each COPERS participant. The excess benefit calculation also shall be performed at such other times as the COPERS Retirement Program Administrator deems appropriate, which may include the effective dates of any retiree benefit increases or the effective dates of any changes in the Code Section 415 limitations.

No participant shall be given an election to defer compensation pursuant to the EBA, either directly or indirectly.

#### **VI. Timing and Form of Payment**

The benefit payable to a COPERS participant pursuant to the EBA shall be paid to the participant at the same time and in the same payment form as the benefit payable from the COPERS trust fund. No participant shall be permitted to make any elections regarding the timing of EBA benefits or the form in which the EBA benefits are paid.

All other relevant elections made pursuant to the administrative provisions of COPERS, such as designations of beneficiaries and contingent annuitants, shall control with respect to the participant's EBA benefits. It also is intended that a qualified domestic relations order approved by the COPERS Retirement System Administrator for a COPERS participant will have equal affect on any EBA benefit that has accrued for the benefit of the COPERS participant.

#### **VII. Payment Source**

No benefits payable under the EBA shall be paid from the COPERS trust fund. Rather, the amounts due to COPERS participants under the EBA shall be paid by a "rabbi trust", established and adopted in accordance with the Treasury Department's Revenue Procedure 92-64 (the "EBA Trust").

The EBA Trust shall be maintained solely for the purpose of providing EBA benefits, and

the assets of the EBA Trust shall be kept separate and distinct from the assets of the City and the COPERS trust fund. The EBA Trust shall not accept contributions from COPERS or its trust fund and shall not pay COPERS benefits. The Trustee of the EBA Trust shall have no power or authority with respect to the COPERS trust fund solely as a result of its role as EBA Trustee.

The adoption and existence of the EBA Trust shall not cause the EBA to be treated as a “funded” deferred compensation program, nor shall it confer any specific rights upon the EBA participants. All assets held in the EBA Trust shall be available to the creditors of the City of Phoenix in the event that the City shall become “insolvent,” as that term is defined in the EBA Trust.

### **VIII. Cost Impact**

The contributions made to COPERS by the City of Phoenix are calculated actuarially, on the basis of the COPERS benefit formula. To date, no adjustment has been made to the actuarial calculations to take into account the reductions in benefits that result from the application of the Code Section 415(b) limitations.

The adoption of the EBA will not require the City to fund any “new” benefits. In its calculations, the COPERS actuaries will be asked to separate the funding required for the benefits payable through COPERS and the excess benefits payable pursuant to the EBA. The City’s obligation to make contributions to fund the full COPERS benefits should not increase as the result of the adoption of the EBA.

The EBA simply provides a payment mechanism for a portion of the funds currently contributed to COPERS, but not currently payable

### **IX. Statement of Intent**

It is the intention of the Board that the EBA constitute a qualified governmental excess benefit arrangement within the meaning of Code Section 415(m)(3). As such, the EBA is not intended to jeopardize the governmental plan status of COPERS under Code Section 414(d) or the tax-exempt status of the COPERS trust fund. The benefits paid pursuant to the EBA are not intended to be subject to the limitations of Code Section 415(b) or Code Sections 457(b)(2) and 457(c)(1). Amounts contributed to the EBA Trust are not intended to be subject to the provisions of Code Section 457(f), and the income derived on contributions to the EBA Trust is intended to be exempt from tax under Code Section 115 as income derived from the exercise of an essential governmental function.

### **X. Taxation of Benefits**

Consistent with the Board’s statement of intent set forth above, it is the Board’s intention that EBA benefits paid to a COPERS participant be included in the taxable income of the COPERS participant in the year the benefits are paid to the participant or otherwise made available to the participant. The Board does not intend to create any tax liability for a COPERS participant as the result of constructive receipt of an EBA benefit, or an economic benefit derived from an EBA benefit that has not yet been paid to the participant.

EBA benefits are exempt from federal unemployment tax. As of the adoption and

amendment of this Board policy, the Internal Revenue Service has issued several rulings stating that it is not clear whether payments from a governmental excess benefit arrangement are subject to Social Security and Medicare taxes under the federal insurance contributions act ("FICA"). Therefore, it is the intention of the Board that the EBA be treated as an exempt governmental deferred compensation plan under code section 3121(v)(3) and that the benefits paid under the EBA shall not be treated as "wages" for purposes of FICA. In the event that congress or the treasury department provides specific guidance on the FICA treatment of code section 415(m) arrangements, the Board will reconsider this policy and make any appropriate prospective changes.

Notwithstanding the foregoing, neither the Board nor COPERS guarantees the specific tax treatment of EBA benefits, or insures an EBA participant against any tax liability resulting from a change in or clarification of the taxation of EBA benefits.

#### **XI. Authority of the Board**

The Board is adopting this Board Policy No. 174 in accordance with Chapter XXIV, Article II, Section 4.1, Charter, City of Phoenix, which vests in the Board the power to administer, manage and operate COPERS. To properly administer COPERS in accordance with its terms and in a manner that is consistent with both the Arizona Constitution and the Internal Revenue Code, the Board finds that it must implement a Code Section 415(m) qualified governmental excess benefit arrangement.

The Board intends the benefits provided pursuant to this Policy to be permanent. The Board reserves the right, however, to amend, modify or terminate this Board Policy at any time, in its discretion

#### **XII. Adoption of Administrative Policies and Procedures**

The Board hereby directs the Retirement Program Administrator to develop and present for approval any and all appropriate administrative policies and procedures. Such policies and procedures shall be designed to establish and manage the EBA in a uniform and nondiscriminatory manner, consistent with this Board Policy.

#### **XIII. General Provisions**

Underpayment or Overpayment of Benefits. If, through misstatement or computation error, EBA benefits are underpaid or overpaid, there shall be no liability for any more than the correct benefit amount calculated under COPERS and this EBA. Future EBA payments may be adjusted to correct any underpayment or overpayment, or the EBA participant may be required to make a lump sum repayment of any overpayment. No overpayment or underpayment correction shall involve the commingling of COPERS and EBA assets.

Limitation on Participant Rights. Participation in the EBA shall not give any Participant the right to be retained in the employ of the City, or any right or interest in a benefit under COPERS or the EBA, except as otherwise provided herein.

Limitation Year. The COPERS limitation year, for purposes of applying the code section

415(b) limit, is the 12 month period ending December 31. The benefits payable under the EBA shall be calculated in accordance with the COPERS limitation year. In the event distributions under the EBA commence during a calendar year, the code section 415(b) limit on distributions shall not be pro-rated.



<b>SUBJECT</b> Non-Disability Hearings – Procedure	<b>POLICY NO</b> <u>175</u>
<b>BRIEF SUMMARY</b> Describing the procedures governing the conduct of all non-disability hearings and the rules for seeking rehearing or appeal therefrom.	

Policy:           A.       General Provisions

- (1)       The Board’s Chairperson (or, if the Chairperson is not present, the Vice-Chairperson or, if neither are present, their designee, shall be the presiding officer at the hearing and rule on all evidentiary or procedural objections. In connection with any ruling, the Board Chairperson or other presiding officer may consult on the record with his/her colleagues on the Board and the Board’s legal counsel.
- (2)       All parties shall be afforded an opportunity for hearing after being given at least 20 days notice of the hearing by U.S. mail. The Notice shall include (i) a statement of the time, place and nature of the hearing; (ii) the legal authority and/or jurisdiction under which the hearing is to be held; (iii) a reference to the charter section, statute, plan provision or rule involved; and (iv) a short general statement of the matters to be heard.
- (3)       Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.
- (4)       Unless precluded by law, informal disposition of any matter brought before the Board may be made by stipulation, agreed settlement, consent order or default.
- (5)       All proceedings before the Board shall be recorded stenographically or by electronic means. The record shall include (i) all pleadings, motions and interlocutory rulings; (ii) all evidence received or considered; (iii) a statement of matters officially noticed; (iv) objections and offers of proof and rulings thereon; (v) proposed findings and exceptions; (vi) any decisions, opinions, or reports by the Chairperson or other presiding officer at the hearing; and (vii) all staff memoranda, other than privileged communications, or data submitted to the Chairperson or other presiding officer or the Board in connection with their consideration of the case.
- (6)       If proceedings are recorded by electronic device, a typewritten transcript thereof shall be provided to any party upon that party’s payment to the Board of the cost of such transcription, unless such payment would be prohibited by law or the Board elects, in its discretion, to waive the payment of such cost.

B. Hearing Procedure, Notice And Discovery.

- (1) Unless otherwise provided by law, all hearings before the Board shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing, nor the failure to adhere to the rules of evidence required in judicial proceedings, shall be grounds for reversing any administrative decision or order of the Board and/or its Chairperson or presiding officer providing the evidence supporting such decision or order is substantial, reliable and probative.
- (2) Every person who is a party to proceedings before the Board shall have the right to be represented by counsel, to submit evidence in open hearing and shall have the right of cross-examination. Unless otherwise provided by law, hearings may be held at any place determined by the Board. The Chairperson or presiding officer shall have discretion to limit the length of the hearing or any examination if he/she reasonably believes such limitation is necessary to prevent the presentation of irrelevant or duplicative evidence. The Chairperson or presiding officer is empowered to bifurcate issues presented to the Board for resolution or set multiple hearings in a single case, and such relief may be requested by any party upon motion addressed to the Chairperson.
- (3) Copies of documentary evidence may be received in evidence in the discretion of the Chairperson or other presiding officer. Upon request, parties shall be given an opportunity to compare a copy with the original.
- (4) The Chairperson or presiding officer may take notice of judicially cognizable facts. In addition, notice may be taken of generally recognized technical, statistical, actuarial or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing or by reference to in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The Board's experience, technical competence and specialized knowledge may be utilized in its evaluation of all evidence.
- (5) The Chairperson or other presiding officer at the hearing may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence and shall have the power to administer oaths. Unless otherwise provided by law or Board rule, subpoenas so issued shall be served and, upon application to the superior court or other court of competent jurisdiction by a party or the Board, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.
- (6) On application of a party or the Board and for use as evidence, the Chairperson or other presiding officer at the hearing may permit a deposition to be taken, in the manner and upon the terms designated by him, of a witness who cannot be subpoenaed or is unable to attend the hearing. Pre-hearing depositions and subpoenas for the production of

documents may be ordered by the Chairperson or other presiding officer at the hearing provided that the party seeking such discovery demonstrates that the party has reasonable need of the deposition testimony or materials being sought. All provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in the Superior Courts of the State of Arizona, unless otherwise provided by law or Board rule.

C. Decision, Rehearing, Reconsideration and Appeal.

- (1) Except when good cause exists otherwise, the Board shall provide an opportunity for a rehearing and re-consideration of its original decision on an issue before such decision becomes final. A request for rehearing shall be submitted to the Board within 35 days of receipt by the party seeking a rehearing of the Board's original decision. The request for rehearing shall state the basis for such request, which among other things, may include the following:
  - (i) Irregularity in the proceedings of the Board, or relating to the conduct of the Board's presiding officer or an adverse party, or allegations that the Board and/or its presiding officer abused their discretion and thereby deprived the moving party of a fair hearing;
  - (ii) Misconduct of the Board or the adverse party;
  - (iii) Accident or surprise which could not have been prevented by ordinary prudence.
  - (iv) Material evidence, newly-discovered, which with reasonable diligence, could not have been discovered and produced at the Hearing;
  - (v) Excessive or insufficient awards;
  - (vi) Error in the administration or rejection of evidence or other errors of law occurring at the Hearing or during the progress of the case leading up to the Hearing;
  - (vii) That the decision of the Board or presiding officer is the result of passion or prejudice;
  - (viii) That the decision of the Board or presiding officer, including any findings of fact or law or judgment, is not justified by the evidence or is contrary to law.
- (2) Unless otherwise provided by the City of Phoenix Charter or other controlling statute or rule, any decision of the Board for which no request for rehearing or reconsideration is filed within the deadlines imposed by the Board shall be considered final. Unless otherwise provided by law, any final decision or order adverse to a party shall be in writing or stated in the record.

- (3) Any decision of the Board, including a final decision, shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by concise and explicit statement of the underlying facts supporting the findings. Unless otherwise provided by law or the Board's rules, parties shall be notified either personally or by U.S. mail to their latest address known to the Board of any decision or order of the Board or its presiding officer. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his/her attorney of record.
- (4) All final decisions of the Board may be appealed to the Superior Court of the State of Arizona within the periods specified, and in the manner provided, in the Arizona Revised Statutes and any applicable provisions of the Phoenix City Charter and/or rules adopted for use in the Arizona Superior and Appellate Courts of the State of Arizona.

<b>SUBJECT</b> Effective Retirement Date	<b>POLICY NO</b> <a href="#">176</a>

Policy: For members transitioning directly from employment to retirement, effective date of retirement will be first day of month following separation of employment.

(Note: does not apply to deferred members)

<b>SUBJECT</b> Applicability of Internal Revenue Code Section 415(b) and Regulation §1.401-1(b)(1)(i) to Pre-Retirement Death Benefit	<b>POLICY NO</b> <a href="#">177</a>
<b>BRIEF SUMMARY</b> The pre-retirement death benefits payable under COPERS should be paid to the appropriate beneficiaries without imposing the limitations of Internal Revenue Code Section 415(b) or the incidental benefit restrictions of Regulation §1.401-1(b)(1)(i).	

Policy: The preretirement death benefit payable under COPERS is not subject to the dollar limitation imposed by Internal Revenue Code 415(b).

The preretirement death benefits provided under COPERS do not violate the incidental benefit rules and are not subject to any limits as a result of the incidental benefit rules.

The preretirement death benefits payable under COPERS should be paid to the appropriate beneficiaries without imposing the limitations of Internal Revenue Code Section 415(b) or the incidental benefit restrictions of Regulation §1.401-1(b)(1)(i).

The full pre-retirement death benefit should be paid from the COPERS trust funds, and there should be no need to process pre-retirement death benefits through the COPERS excess Benefit Arrangement.

<b>SUBJECT</b> Processing COPERS Distributions in Accordance With Internal Revenue Code Section 401(A)(9)	<b>POLICY NO</b> <u>178</u>
<b>BRIEF SUMMARY</b> It is the policy of the Board to process all COPERS distributions in accordance with the requirements (timing, payment form and amount) set forth in I.R.C. Section 401(a)(9) and the related Treasury Regulations.	

The COPERS Board amends the following policy effective January 1, 2003:

1. It is the policy of the Board to ensure that distributions from COPERS are processed in accordance with a reasonable good faith interpretation of Section 401(a)(9) of the Internal Revenue Code (the "Code"). In furtherance of this policy, the Board and COPERS administration shall make reasonable and good faith efforts to comply with the requirements of the treasury regulations promulgated pursuant to code section 401(A)(9) notwithstanding any provision of COPERS to the contrary.
2. This policy shall be interpreted and construed in a manner consistent with the relief afforded to governmental plans under section 823 of the Pension Protection Act of 2006 and the Treasury Department's proposed regulations promulgated pursuant thereto, at Treas. Reg. sec. 1.401(A)(9)-1, Q&A-2(D).
3. When processing distributions required by Code Section 401(a)(9), the following principles shall guide the COPERS administrative practices:
  - a. The entire benefit of a COPERS member must be distributed over the life of the member, or the joint lives of the member and the designated beneficiary, beginning on the April 1 of the calendar year following the year in which the member attains age 70 ½, and in accordance with the incidental benefit requirements.
  - b. For this purpose, a member's designated beneficiary is any individual designated by the member as a beneficiary in accordance with the policies and procedures of COPERS.
  - c. The life expectancies necessary to calculate benefit distributions under Code Section 401(a)(9) shall be determined in accordance with the Treasury Department's Regulation Section 1.401(a)(9)-9. If the member's designated beneficiary is the member's spouse, then the life expectancy used to calculate distributions may be recalculated annually.
  - d. If the member dies after distributions have begun, the member's benefit must be distributed at least as rapidly as under the method used by the member.
  - e. If the member dies before distributions have begun, the member's benefit must be either distributed over the life of the designated beneficiary with distributions beginning no later than one (1) year following the date of death, or distributed within five (5) years after the death of the member.

<b>SUBJECT</b> Internal Revenue Compliance	<b>POLICY NO</b> <u>179</u>
<b>BRIEF SUMMARY</b> Describing the System's obligation to comply with the Internal Revenue Code.	

Policy: The System is a public pension plan, intended to constitute a tax-qualified governmental retirement program under § 401 of the Internal Revenue Code, as amended ("Code").

- (1) The System is also an independent public trust pursuant to Article XXIX of the Arizona Constitution.
- (2) As a Code §401 tax-qualified retirement plan, the System's assets and revenues are held as a separate trust fund exempt from taxation under § 501 of the Code, but only so long as the System's terms comply with the Code. Failure of the System to maintain its tax-exempt status would largely defeat the value of the System to its members, for the loss of tax-exempt status would cause all member contributions and vested pension benefits to be immediately taxable.
- (3) To maintain the qualified status of the System and the tax-exempt status of the trust fund, the System must be operated in accordance with the governmental pension plan requirements of the Code. It is incumbent upon the System's Board to conform the System's enabling legislation and policies with the Code to ensure that the System complies with the Code. As a result, to preserve the System's tax-exempt status, the System's Board has always taken, and shall continue to take, all steps within its power to ensure the System's compliance with the Code.
- (4) Since it has always been the System's intent to comply with the Code, the System's Board has always construed, and shall continue to construe, all rights and benefits provided by the System, as well as all obligations imposed by the System, in a manner that comports and complies with the Code and other applicable law, and no member of the System shall have a right to rely on any term of the System which violates the Code or other applicable law.
- (5) Whenever possible, the System's enabling legislation shall be construed in a manner so as to always comply with the Code. Any term of the System which violates the Code or other applicable law shall not be enforced.
- (6) Since Code compliance is essential to maintaining the System's value to its members, each member of the System is deemed to have agreed that his or her rights under the System are subject to the Code, the provisions of which shall control over any conflicting rights or obligations contained in the System's enabling legislation.
- (7) In connection with the Board's obligation to operate the System in accordance



with the governmental pension plan requirements of Code §401, this policy shall document certain specific Code compliance requirements which affect the administration of the System.

- a. Certain contributions made to the System by members are, and shall continue to be, picked up by the City and treated as employer contributions in accordance with Code §414(h). Attached to this Policy as Exhibit A is a description of the history and authorization of the System's employer pick-up feature.
- b. In preparing benefit calculations under the terms of the Charter, the annual compensation of members is, and shall continue to be, limited in accordance with Code §401(a)(17).
- c. Benefits paid by the System, and in certain cases contributions made to the System, are, and shall continue to be, limited in accordance with Code §415. For purposes of Code Section 415(b) and Code Section 415(c) limitations, the "limitation year" is the calendar year. For purposes of applying the limitations of Code Section 415 with respect to benefit forms that are described in Code Section 417(e)(3), the applicable interest rate shall be determined based on a plan year stability period, using the month prior to the beginning of the plan year in which the member commences their benefit as the lookback period. The mortality table shall be that prescribed under Code Section 417(e)(3) for the annuity starting date of the member.
- d. Distributions from the System are, and shall continue to be, paid to members and beneficiaries in accordance with the requirements of Code §401(a)(9).

<b>SUBJECT</b> Purchase of Service For In-State or Out-Of-State Public Service, Covered by a Public Retirement Plan (Military Service Considered Eligible), City of Phoenix Job Share Service, City of Phoenix Full-Time Temporary Service.	<b>POLICY NO</b> <u>180</u>

**CITY OF PHOENIX EMPLOYEES RETIREMENT SYSTEM**

Policy: It is the policy of the COPERS consistent with all applicable laws, regulations and charter provisions to provide an active member who previously was a member of another public employee retirement system, or who previously was in a job share or non-participatory full-time temporary position with the City of Phoenix the opportunity to purchase COPERS credit for this service/employment. Members purchasing credit for job share service will receive such service on a 50% prorated basis. Subject to the limitations of this policy, eligible military service shall be considered covered by another public employee retirement system for members of COPERS effective January 28, 1998. Eligible job share and full-time temporary employment purchases are effective October 1, 2008. This policy supersedes policy 169. An application fee of \$95 is effective October 1, 2010 for all purchases.

For purposes of this policy, the following definitions apply:

Lump Sum Payment: A single payment by an eligible member, of the calculated amount to purchase all or a portion of available credited service.

Payroll Deductions Not Under a Salary Reduction Plan: Payroll deductions (payment plan) in conformity with COPERS guidelines, the member may revoke payroll deductions agreements as prescribed by COPERS. Member contributions under this Plan are considered "Taxed Contributions."

Eligible Rollover Distribution: Payment by an eligible member, through a direct transfer or eligible rollover distribution, from one or more qualified retirement programs, including individual retirement accounts, to purchase all or any portion of eligible credited service, subject to the limits of IRC 402(c).

Contribution Limit: The limitation on contributions (and other annual additions) as set forth in IRC § 415(c), 26 U.S.C. § 415 (c) to all defined contribution and defined benefit plans. A member exceeds the contribution limit if the member's combined yearly contributions to all defined contribution and defined benefit plans, including employer contributions that are considered annual additions, employee contributions and forfeitures, is greater than the lesser of the limit amount set forth in IRC § 415(c), or 100% of the member's yearly compensation. Employee rollover contributions (as defined in IRC §§ 402 (c), 403 (a)(4), 403 (b)(8), 408 (d)(3), and 457 (e)(16)) shall not be included as an employee contribution for purposes of determining whether the contribution limit has been met.

5. Public Employment Retirement System Means: An organization providing a formal program of retirement benefits for employees of the Federal Government, states, their political subdivisions, or territories of the United States.
6. City of Phoenix Job Share: a program by the City of Phoenix, governed by Administrative Regulation 2.141, where two people in the same job classification share the duties of one full-time regular position, receiving benefits prorated at 50%, further defined as “unclassified service.” Employees in job share positions are not members of COPERS.
7. City of Phoenix Full-Time Temporary Service: position in which employees worked 40 hours per week (full-time), however, during this period of employment were not members and did not contribute to COPERS.
8. IRA Rollover Distribution: Payment by an eligible member from a distribution from one or more eligible individual retirement agreements (IRA’s) to purchase all or any portion of eligible credited service, subject to the limits of IRC 402(C). Effective April 22, 2004, payments may be made from an eligible rollover distribution from either a contributory IRA, or a conduit IRA. Pre-tax IRA contribution rollovers may be made from an IRA holding both pre-tax and after-tax dollars. Only the pre-tax dollars may be rolled over. Appropriate documentation and an affidavit are required for all IRA rollovers. Prior to April 22, 2004 only rollovers from conduit IRAs were accepted.
  - a. Contributory IRA: A contributory IRA is an IRA to which the member previously made individual contributions or rollover contributions from a qualified pension plan. A contributory IRA is held by a bank trustee, does not contain life insurance and is not commingled with non-IRA assets. Although a contributory IRA may hold funds originating from various sources, no IRA rollover distributions to COPERS may be made with IRA funds attributable to inherited amounts, minimum required distributions or annuity distributions received from a qualified pension plan, after-tax contributions, Roth IRAs, Coverdell education savings accounts, or simple IRAs that have been in place for less than two years.
  - b. Conduit IRA: A conduit IRA is an IRA to which distributions only from a qualified pension plan are made. A qualified pension plan distribution that is rolled over to a conduit IRA may include employee contributions or governmental pick-up contributions.

#### General Requirements and Procedures

A member is eligible to purchase prior service under another public retirement program, prior employment service in a City of Phoenix job share position or prior employment in a city of phoenix full-time temporary position, under the following guidelines:

- (a) The member is actively contributing to the COPERS defined benefit plan or is considered an employee in inactive status under the LTD Program at the time of the request to COPERS,
- (b) The member has made contributions to another public retirement system (for non-contributory plans, membership in that plan provides the equivalent requirement of contributions),

- (c) The member is not receiving or eligible to receive a retirement benefit from another public retirement system for the same credited service (excluding Social Security) (participation periods in Deferred Retirement Option Plans or similarly structured programs are not eligible for purchase),
- (d) An eligible COPERS member can qualify to purchase up to five (5) years of COPERS credits for military service regardless of eligibility to receive a retirement benefit from the military. The DD214 must demonstrate honorable discharge.
- (e) Job share employment will be prorated at 50% of the member's time employed in a job share position,
- (f) Full-time temporary employment will have to demonstrate full-time work for the period requested,
- (g) Payments must be made within 60 days after separation of employment. Partial payments are permitted. Service purchased by a partial payment is defined in paragraph 3 (d).
- (h) Payments, including the city's contributions, member lump sum payments, member payroll deductions and member forfeitures, but excluding eligible rollover distributions and/or IRA rollover distributions, cannot exceed the contribution limit.
  - (i) COPERS will not accept payments into COPERS to the extent it is aware those payments exceed the contribution limit; however
  - (ii) it is the member's responsibility to ensure that any contributions made to any other defined contribution or defined benefit plan not managed by COPERS, in combination with contributions made to COPERS, do not exceed the yearly contribution limit as set forth in the regulations.

An active COPERS member who chooses to apply to purchase credit for service must submit a written request to COPERS. Payment of an application fee of \$95.00, via check or money order, payable to the City of Phoenix Employees' Retirement System (which will be deposited in the City of Phoenix General Fund), is required to accompany the written request. (Effective October 1, 2010). Prior to Board action, an applicant may request the process of the service purchase be suspended. The \$95 fee will subsequently apply to a reinitiated request of the suspended service purchase. The suspension or cancellation of a request will not result in a refund of the application fee. Upon receipt of such request and fee the COPERS staff shall:

- (a) Provide to the former retirement system or City of Phoenix Personnel Department the necessary forms to obtain verification of prior service/employment.
- (b) The COPERS staff may provide the member with a preliminary estimated cost, based on information provided by the member to COPERS.

Upon receipt of verification of prior service, staff shall:

Determine the cost of the purchase based on official information received. The cost shall be based on the full actuarial cost of providing COPERS benefits for the period of service being purchased. The full actuarial cost shall be determined employing the COPERS actuarial assumptions in effect at the time of the member's application and the member's last twelve (12) months of retirement applicable salary. If less than twelve (12) months salary history exists, the salary will be annualized using at least two full pay periods. The full actuarial cost calculation shall not be performed more than thirty (30) days prior to Retirement Board approval. In the event the initial cost calculation for any given year exceeds the contribution limit, staff shall reduce to the contribution limit the allowed purchase and corresponding cost calculation for that year. Service to be purchased via an existing salary reduction plan shall be included in the calculation. Upon Retirement Board approval, the member will have sixty (60) days to complete the purchase or initiate a payroll deduction plan. After sixty days any service not purchased or in the process of being purchased via a payroll deduction plan must be recalculated utilizing assumptions and salary in effect at the time of the member's subsequent request.

Provide a written response to the member detailing the cost of the purchase and payment options available.

- (c) Upon Retirement Board approval, the member will have sixty (60) days to complete the purchase or initiate a payroll deduction plan. The cost calculation prepared for the member shall expire sixty (60) days after the Retirement Board approval. If the member does not complete the purchase or initiate a payroll deduction plan within sixty (60) days, or the member wishes to purchase additional service not included in the initial cost calculation and more than sixty (60) days have passed since the Retirement Board approval, a new application must be submitted and the cost must be recalculated using updated actuarial assumptions and salary history.
- (d) If less than the full amount due (to purchase service) is received, COPERS shall credit the member with service only for the amount paid as prorated portion. Credit will be added to a member's account in the same manner as credit for regular payroll contributions.
- (e) The Board may accept member contributions for the purchases of eligible credited service by any one or a combination of the following methods:

Lump sum payment.

Payroll deductions not under a salary reduction plan.

Salary Reduction Plan through the City's payroll.

Eligible rollover distribution.

Eligible IRA rollover distribution.

4. An eligible member choosing to purchase available credited service under the procedures outlined herein may purchase a portion of available service by one method and may purchase additional available amounts by the same or alternative method, as provided and restricted by this policy.

(a) **Lump Sum Payment** - An eligible member may purchase all or any portion of available credited service by a single lump sum payment.

- (1) Payment must be made to COPERS within sixty (60) days of the notification of the amount due (but not before Retirement Board approval). If payment is not made within 60 days, or payment is made for less than the full amount, the cost will be recalculated.
- (2) Payment must be made by personal check, cashier's check or money order.
- (3) Returned (NSF) checks will be handled by employing standard City business practices.
- (4) The members will be sent an acknowledgment of the service credit applied to their account.

(b) **Rollover Payments** - Any member electing to purchase credited service through a rollover or direct transfer shall be provided a rollover packet along with necessary election forms.

- (1) Three types of rollover contributions may be accepted by COPERS: conduit IRA rollovers (rollover contributions of eligible rollover distributions previously paid to a member from the member's prior qualified plan), subject to the rollover timing rules; direct rollovers (transfers of eligible rollover contributions directly to COPERS from the member's qualified plan); eligible rollovers from contributory IRAs (rollover contributions of eligible tax-deductible funds held in the member's contributory IRA), subject to the rollover timing rules.

Additionally, COPERS may accept transfers from in-state (Arizona) deferred compensation plans under IRC 457 and plans under IRC 403(b).

- (2) For the purpose of rollover, a "qualified" plan is a plan maintained by a public employer as a pension, profit sharing, or 401(k) plan described in IRC 401(a), a qualified annuity under IRC 403(a) of the code, a IRC 457 plan, or a IRC 403(b) plan.
- (3) The COPERS member making the rollover must have been the named participant in the distributing or transferring plan.
- (4) A direct transfer or rollover from another qualified plan may be accepted with evidence from the prior retirement plan that the plan making the transfer is a governmental, qualified plan at the time of the transfer.

- (5) COPERS cannot accept transfers or rollovers from:
    - (a) Individual Retirement Agreement (IRA) that does not meet the definition of contributory IRA or conduit IRA.
    - (b) Distributions from non-qualified tax deferred annuities or insurance policies.
  - (6) The member cannot rollover or transfer to COPERS an amount in excess of the cost of the credited service to be purchased.
  - (7) The rollover must be completed within 60 days of the distribution from the other plan.
  - (8) Rollover or direct transfer check must be payable to the COPERS.
  - (9) Amounts rolled over from a contributory IRA or a conduit IRA must be distributed from the IRA to the member, and then rolled over by the member to COPERS.
  - (10) Service credit will be added to the member's account in proportion to the amount received as provided in this policy.
  - (11) The member will be sent an acknowledgment of the service credit applied to their account.
  - (12) If COPERS accepts a rollover distribution, and later determines that the contribution was an invalid rollover, COPERS must distribute the invalid contribution back to the member, plus interest earnings at the rate adopted by the COPERS Board.
- (c) **Payroll deductions not under a Salary Reduction Plan** - This method of payment represents revocable regular salary deductions from the members' salaries. Within sixty (60) days after notification a member may enter into an agreement to purchase any portion of an approved purchase through biweekly payments over not more than five (5) years. In the event the payroll deduction plan in effect does not complete the purchase of all years approved, the member may enter into additional payment plans of not more than five (5) years to purchase additional portions of the approved service, not to exceed the original service approved. Each contract shall be costed by the method defined in this policy.
- (d) **Salary Reduction Plan through the City's payroll** - This method represents an irrevocable reduction of the members' salaries, consistent with the private ruling issued by the Internal Revenue Service on March 1, 2000. Contributions by members under this salary reduction plan shall be considered paid by the City (employer) on behalf of the member under an "employer pick-up plan" in accordance with IRS regulations.
- (e) The following limitations apply to a salary reduction plan as described in (d) above:

- (1) A decision to pay contributions under this plan must be irrevocable (total and permanent disability or termination of membership automatically cancels this plan).
- (2) This plan represents an irrevocable decision to pay contributions due exclusively through the City's payroll. Periodic partial payments during the term of the plan cannot be permitted.
- (3) The term and the periodic amortization of the amounts due shall be for not more than five (5) years. The member may enter into additional payment plans of not more than five (5) years to purchase any portion of approved service not completed. Each contract shall be costed by the method defined in this policy.
- (4) The amounts payable under this plan shall not exceed 75% of the member's biweekly net pay at the time of application.
- (5) The member agrees that if the compensation of the member is reduced to an amount which is insufficient to provide for the total amount of payroll reduction, the obligation of the member to purchase the credited service will continue and the Retirement Board will readjust the amount of the payroll reduction.
- (6) Under this policy the member agrees that during the term the payroll reduction agreement is in effect (pursuant to the forgoing described rules), the employee shall not have the option of receiving directly in cash the amounts that are to be paid by payroll reduction.
- (7) All amounts picked up by the City pursuant to this policy shall be paid directly to COPERS; shall be credited to the employee's savings fund, and shall be considered contributions of the member for all purposes of COPERS, including without limitation, the provision of Sections 2.12, 26 and 32 of the Retirement Laws and related Board Policies.



<b>SUBJECT</b> Board Training Policy	<b>POLICY NO</b> <u>181</u>
<b>BRIEF SUMMARY</b> The Board supports training for its members in areas facilitates the authority and responsibility for the administration, management and operation of the Retirement Plan as vested in the Retirement Board by Charter (Sec 4.1).	

Policy:

- 1) The Retirement Program Administrator will coordinate a “New Board Member Orientation Program” for new Board members.

The “New Board Member Orientation Program” will address, at a minimum, the following items:

- COPERS History
- Investment Review
- Actuarial Review
- Board and Committee Structure
- Review of Administrative Structure
- Review of Plan Benefit Provisions
- Open Meeting Law training
- Ethics training
- Fiduciary Duty

- 2) Board members will evaluate their own educational needs to obtain knowledge in specific subject matters.

Board members are encouraged to attend educational sessions related to:

- Investment issues and trends
- Pension benefits designs
- Fiduciary responsibilities
- Actuarial issues and trends
- Other subjects related to the administration, management and operation of the Retirement Plan

The Retirement Program Administrator will periodically provide the Board with information on available conferences and seminars, including the direct and indirect sponsors to the extent available.

Annually, the Retirement Program Administrator will identify topics for Board education, with input from the Board and design at least one educational forum on these topics.

The Board will evaluate the direct and indirect sponsors of conferences and seminars the Trustees plan to attend, regardless of whether a cost will be incurred by the Plan. The Board may provide input in order to manage conflicts of interest issues.

All Board members have the responsibility to attend a minimum of 8 hours of Board member education within the first year of assuming office and every year thereafter.

The Retirement Program Administrator will twice a year prepare a report on the training activities of the Board members. The report will include the seminar/conference name, sponsor, location, dates and cost of the training.

The Board must approve attendance at any training where a cost will be incurred by the Plan. Only Continental US travel for relevant training will be approved. International travel is not allowed.

Payment and reimbursement of travel-related expenses for training will be in accordance with the City of Phoenix Administrative Regulation 3.41 *Business, Conference and Training Travel and Related Expenses*.

- 3) The Board will annually receive fiduciary training presented by a representative from the City Attorney's Office or other legal counsel as designated by the City Attorney and/or the Board.

The fiduciary training will address, at a minimum, the following items:

- Understanding who is a fiduciary
- The common law of trusts and the standards
- The duties of prudence and loyalty
- The duty to follow plan documents
- Identifying and managing conflicts of interest
- Delegation of duties and due diligence required
- Monitoring and oversight of delegated duties

<b>SUBJECT</b> Policy Deleted	<b>POLICY NO</b> <a href="#">182</a>
<b>BRIEF SUMMARY</b>	

<b>SUBJECT</b> Mileage Allowances for Retirement Board Citizen Member, Retirement Board Retiree Representative and Disability Assessment Committee Citizen Member	<b>POLICY NO</b> <a href="#">183</a>

Policy:

The Retirement Board Citizen Member, the Retirement Board Retiree Representative and Disability Assessment Committee Citizen Member are eligible to receive a mileage allowance for the use of their motor vehicles for attendance at Retirement Board and Committee meetings. The allowance will be at the prevailing rate for business use of private motor vehicles as established by the Internal Revenue Service.

The request for the allowance will be documented on the attached form and submitted to the Retirement Program Administrator.

<b>SUBJECT</b> Records Retention For Audio or Video Recordings of Board And Committee Meetings	<b>POLICY NO</b> <a href="#"><u>184</u></a>

Policy:

Unless otherwise directed by the Board, the audio or video recordings of board and committee meetings will be retained for three months after the date of the meeting where the minutes have been approved.

Unless otherwise directed by the Board, the audio or video recordings will be destroyed no less than 90 days after the minutes have been approved. A certificate of destruction shall be prepared and retained by the executive secretary or designee.

<b>SUBJECT</b> Payment of Expenses	<b>POLICY NO</b> <a href="#">185</a>
<b>BRIEF SUMMARY</b> Payment of reasonable and necessary administrative expenses with COPERS assets	

Policy:

Reasonable expenses that are necessary for the proper and efficient administration of COPERS may be paid with COPERS assets. The types of expenses that may be paid with COPERS assets include, but are not limited to, investment management fees and expenses, actuarial and legal expenses, audit and accounting expenses, recordkeeping and administrative costs, custodial fees and expenses, and other direct costs incurred by the city with respect to the administration of COPERS.

The board shall determine, in its discretion, whether particular expenses are reasonable and necessary in COPERS administration. The board may authorize the payment of particular categories of administrative expenses or individual expense items. In the event the board authorizes the payment of a category of administrative expenses, the retirement staff shall report to the board periodically regarding such expenses and payments.

<b>SUBJECT</b> Designation of an Entity as Beneficiary to Receive Accumulated Contributions	<b>POLICY NO</b> <a href="#">186</a>
<b>BRIEF SUMMARY</b> Members may designate legally incorporated entities as beneficiaries	

Policy:

Members may designate legally formed entities as beneficiaries. The Retirement System will make the directed payments, should the member die and leave no beneficiary entitled to a pension, upon the submission of documentation to prove the legal formation of the entity. If the entity is unable to provide satisfactory documentation regarding the legal formation of the entity, the accumulated contributions will be paid to the legal representative of the deceased member.

<b>SUBJECT</b> Retirement Program Administrator Performance Evaluation	<b>POLICY NO</b> <u>187</u>
<b>BRIEF SUMMARY</b> The Board shall provide input to determine Board related goals and evaluation of the Retirement Program Administrator’s performance.	

Policy:

1. City Charter, Chapter XXIV, Article II, Section 5.2 states the Board shall appoint an executive secretary. Board Policy 3, Section B.3.a states the Retirement Program Administrator (“Administrator”) shall be appointed by the Board in accordance with applicable Human Resources Department procedures and shall serve as the Board’s Executive Secretary.
2. The Administrator’s performance evaluation shall be conducted in accordance with the Phoenix Management Achievement Plan (“MAP”) or its successor. The MAP is a system for middle managers and executives to measure, track and reward performance.
3. The City Manager or the employee to whom the City Manager has delegated the City Manager’s responsibilities and powers as ex-officio Board Member (the “City Manager’s Delegate”) (Charter § 4.2(b)) shall be responsible for documenting the Administrator’s MAP.
4. The Board and Administrator will, as part of the plan development process of the Administrator’s MAP, mutually provide input to the City Manager or the City Manager’s Delegate to establish the Administrator’s annual performance indicators related to staff support to the Board.
  - a. These performance indicators will be based on an appraisal of the major work program goals necessary to achieve the Board’s goals and the resource capabilities of the organization.
  - b. The development of the annual performance indicators will occur in accordance with the schedule established by the City for its employees’ MAPs.
  - c. The discussion or consideration of the annual performance indicators may take place in an executive session in accordance with State of Arizona Open Meeting Law pertaining to the discussion of personnel matters.
  - d. The Board will vote in open session to approve the annual performance indicators
5. The Board will, as part of the evaluation process of the Administrator’s MAP, mutually provide input to the City Manager or the City Manager’s Delegate to assess the progress and performance for results achieved in the performance indicators related to staff support to the Board.
  - a. The evaluation process will occur in accordance with the schedule established by the City for its employees’ MAPs.



- b. The discussion or consideration of the evaluation may take place in an executive session in accordance with State of Arizona Open Meeting Law pertaining to the discussion of personnel matters.
- 6. The City Manager or the City Manager's Delegate will complete the evaluation process of the Administrator's MAP.
  - a. The City Manager or the City Manager's Delegate shall present the completed annual evaluation the Board.
  - b. The discussion or consideration of the completed evaluation may take place in an executive session in accordance with State of Arizona Open Meeting Law pertaining to the discussion of personnel matters.
  - c. The completed evaluation will become final upon adoption by vote of the Board in open session.
- 7. The City Manager or the City Manager's Delegate will also complete the Management and Executive evaluation processes of the Administrator's MAP.

<b>SUBJECT</b> Securities Lending Policy	<b>POLICY NO</b> <u>188</u>

### **I. Scope**

This policy applies to all separate account assets of the City of Phoenix Retirement Employees Retirement Plan (COPERS) that are eligible for loan, enrolled in a securities lending program, and the associated collateral held for lent securities.

### **II. Investment Philosophy**

The securities lending program actively lends securities through the Plan's custodian (or affiliate thereof), as lending agent, to qualified borrowers in order to provide incremental income to the Plan. Borrowers provide collateral in the form of cash or certain permitted non-cash securities in exchange for the right to borrow securities.

### **III. Permitted Investments and Restrictions**

Borrower Collateral:

- Cash (U.S. and foreign currency)
- Assets permissible under Rule 15c3-3 of the Exchange Act of 1934
- U.S. and non U.S. equities
- Fixed income securities will have a long term rating of AA- or better, short term rating of A1/P1 or better
- Such other collateral as the Board may agree to in writing

Cash Collateral Reinvestments:

- Short-term investment funds will have a weighted average maturity of 90 days or less
- All securities with a maturity of less than 397 days must qualify as a first-tier security as defined in rule 2a-7 of the Investment Company Act of 1940
- All securities with a maturity in excess of 13 months must be, (1) rated A or better by at least two NRSROs, or (2) if rated by only one NRSRO be rated A or better by that organization, or (3) if unrated be of comparable quality as demonstrated by the lending agent.
- Such other collateral reinvestment guidelines as may from time to time be adopted by the Board in writing.

### **IV. Performance**

Staff will assess the performance of the securities lending program on a quarterly basis by comparing it to other program participants as well as the Plan's historical returns. Staff will report any shortcomings in the performance to the COPERS Board.

## V. Risk Management

Risk is managed through a combination of quantitative and qualitative constraints. The following sections identify the significant elements of risk associated with securities lending. Staff will monitor these risks and compliance with the COPERS securities lending policy on a monthly basis.

- **Cash Reinvestment Risk** – This is the risk that the cash reinvestment assets (collateral pool) would not be sufficient to cover the liabilities due to the borrowing brokers. This risk is addressed by the investment restrictions for the cash collateral reinvestments as well as the ongoing credit analysis and research conducted by the lending agent.
- **Counterparty Risk** - This is the risk that the borrowing broker does not return the borrowed security. This risk is mitigated by the holding of excess collateral for each loan at the rate of 102% for domestic securities and 105% for international securities. Loans and collateral are marked to market daily and deficiencies are required to be remedied with the delivery additional collateral by the close of the next business day. The credit worthiness of the borrowers is reviewed by the lending agent on a regular basis. COPERS has the authority to limit or disallow the use of any otherwise approved counterparty. Further COPERS is indemnified against loss due to the default of one of the lending agent's approved borrowers.
- **Liquidity Risk** – This is the risk that securities may be on loan when the Plan has cash requirements. The securities lending agreement stipulates that the Plan may recall any borrowed security at any time for delivery by the close of business of the next business day. Additionally, the maximum percentage of assets that may be on loan is 50% of the total plan.

## VI. Roles and Responsibilities

### Board of Trustees

- Approve securities lending policy
- Approve cash collateral reinvestment strategies to be utilized in the program
- Review securities lending performance quarterly

### Investment Staff

- Develop the securities lending policy
- Handle day-to-day administration of the securities lending program
- Negotiate the securities lending contract
- Monitor the performance of the securities lending program and report results to the Board quarterly
- Monitor risk associated with securities lending on a monthly basis and report material exceptions to the Board

## **Investment Consultant**

- Review and comment on the policy and guidelines developed by the staff
- Present an independent annual review of the securities lending program to the Board
- Prepare and present memorandum on securities lending as may be requested by the COPERS Board

## **VII. Monitoring and Reporting**

### **Annually**

- Memo prepared by the investment consultant reviewing the performance and structure of the securities lending program

### **Quarterly**

- Investment performance report prepared by staff
- Violation of securities lending policy as and if warranted

<b>SUBJECT</b> Brokerage and Directed Commission Policy	<b>POLICY NO</b> <a href="#">189</a>

The City of Phoenix Employees' Retirement System, (the "Fund"), has authorized the directed trading of certain brokerage transactions generated by the Fund's account to the Plan's custodian or another commission recapture brokerage provider to provide for the recapture of a portion of brokerage commissions to directly benefit the Plan.

The Fund has adopted a policy that, for accounts managed for the Fund, investment managers will be instructed to use their best efforts (although no specific percentage is required) to place trades with the custodian's network of brokers for purpose of commission recapture or that provided by another commission recapture brokerage provider. A summary of commission recapture activity will be prepared and presented to the Board following each calendar quarter. Notwithstanding these instructions, such transactions should only be directed by managers to such networks provided that the manager shall also fulfill their obligation to achieve best execution of Fund transactions.

<b>SUBJECT</b> Securities Class Action Policy	<b>POLICY NO</b> <a href="#">190</a>

### **Policy**

This policy pertains to the monitoring and processing of securities class action litigation activities that directly affect the City of Phoenix Employees' Retirement System (COPERS). COPERS has a responsibility to reasonably monitor and evaluate these actions. The following options are available to COPERS:

- Monitor class actions filed, ensuring that claims are filed on behalf of COPERS as a party to the class action whenever appropriate, and evaluating claims filed on behalf of COPERS.
- Taking a lead plaintiff role in a class action.
- Opting out of a class action in order to file separate litigation.

COPERS will monitor and file a claim as a party to the class action unless there are factors present that clearly suggest that one of the other two options is more appropriate. These factors include, but are not limited to, the size of COPERS' loss (COPERS will typically not consider a case in which it has lost less than \$1 million), the size of COPERS' loss in comparison with other investors, the experience and ability of other investors to pursue the claim, the potential advantages to COPERS, the risk to COPERS, and the cost to COPERS.

### **Procedures**

COPERS utilizes a variety of sources to identify filed securities litigation actions that involve securities either currently or previously owned by the system. The external sources include but are not limited to external contracted law firms, custodial records and services, internet research, external notifications received through legal correspondence, and external portfolio managers.

Through the services of the contracted custodian, class actions are handled as follows:

- Notices of class actions are identified.
- Proof of claims are filed in actions involving securities held by COPERS.
- Reports are provided of security transactions at COPERS within the class action period.
- Monthly reports are provided of class actions and their current status.
- Paid claims are posted to COPERS' cash account

A quarterly class action status and claims paid report will be prepared by staff, based on information provided by the custodian, and submitted to the COPERS Board.

With approval of the Board, services to be provided by external securities litigation counsel may include, but are not limited to, the following:

- Counsel will monitor COPERS' separate account holdings for securities litigation actions and conduct research to determine if the litigated security was owned during the specific class action period and if any specified criteria to be included in the litigation are met.
- If requested, counsel may be asked to review and analyze securities losses and claims that pertain to securities held by the COPERS. Counsel may be consulted about class action proceedings, bankruptcy proceedings and opportunities to become lead plaintiff in claims proceedings.
- If requested, counsel will attend staff, Committee, or Board meetings to present litigation analysis and recommendations in particular cases and to provide information and advice to COPERS management and the Board. If authorized by the Board, Counsel may represent COPERS in securities litigation. Based on criteria provided by COPERS, counsel will provide analysis and advice about securities litigation, including class actions, filings for lead plaintiff, whether to opt out to file a separate suit, calculation of loss, damage and analysis of claims under federal and state law, and related matters as assigned.
- When Counsel is authorized to commence or participate in litigation on behalf of COPERS, fees for the representation in each case will be negotiated and determined on a case-by-case basis subject to all required approvals, including without limitation the Board and the City Attorney or other authorities, as applicable. In such cases, any fees incurred and billed to COPERS to initially analyze, report or recommend the case to staff and the Board will be credited against any contingent fee awarded in the litigation, if applicable. If necessary or desirable for the representation and if approved by COPERS, Counsel will associate with local counsel admitted to practice in the courts of the state where the litigation is filed. Counsel will deliver reports on litigation in which Counsel represents COPERS on at least a monthly basis. If requested by COPERS, Counsel will draft pleadings and motions and monitor, intervene, and appear on behalf of COPERS in securities litigation in which COPERS is not a named plaintiff to object to case consolidation, lead plaintiff or class counsel appointment, fee applications, class certification, or settlement proposals. If requested, Counsel will file a notice of appearance in other litigation in order to receive motions, pleadings, or discovery, and will assist and advise the lead plaintiff or lead counsel to the class.
- When appropriate or required by COPERS, Counsel will work in close cooperation with the City Attorney in any litigated matter in which Counsel is representing the COPERS. When required, Counsel will act as co-counsel with the Office of the City Attorney in any litigation for which Counsel is retained by COPERS.

<b>SUBJECT</b> Delegation Policy	<b>POLICY NO</b> <u>191</u>

Policy:

The authority and responsibility for the administration, management and operation of the Retirement Plan (Plan) and for construing and carrying into effect the provisions of the Plan are vested in the Retirement Board (Board).<sup>2</sup> The Retirement Plan is also known as the City of Phoenix Employees' Retirement System (COPERS).

The Board shall appoint an executive secretary who shall not be a Board member.<sup>3</sup> The Retirement Program Administrator (Administrator) shall be appointed by the Board in accordance with applicable Human Resources Department procedures. The Administrator shall serve as the Board's Executive Secretary.<sup>4</sup> The Administrator's responsibilities include the planning, organizing, directing, controlling and staffing activities of the Plan under the direction of the Retirement Board.<sup>5</sup>

The Board is responsible for the establishment of policy. The Board has delegated the implementation of Board policy to the Administrator. Any policy revisions or deviations require Board approval.

Actuary

The Retirement Board shall appoint an actuary who shall be its technical advisor on matters regarding the operation of the Retirement Plan.<sup>6</sup> The actuary shall conduct an experience study every five years<sup>7</sup>, annual and periodic valuations<sup>8</sup>. The Administrator shall keep such data as shall be necessary for an actuarial valuation of the asset and liabilities of the Retirement Plan and for determining benefits to which retirants, and beneficiaries are entitled.<sup>9</sup>

Annual Report

The Board has delegated the Charter requirement for the preparation and publication of an annual report. The annual report shall be prepared by the Administrator and the City of Phoenix Finance Department.<sup>10</sup> The annual report shall show the fiscal transactions of the Plan for the preceding fiscal year, and the balance sheet for the Plan as of the preceding June 30<sup>th</sup>.<sup>11</sup> The

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<sup>2</sup> Chapter XXIV, Article II of the Charter of the City of Phoenix, known as the City of Phoenix Employees' Retirement Law of 1953 (the "Charter") §4.1

<sup>3</sup> Charter §5.2

<sup>4</sup> Board Policy 3: Board Election of Officers, Proceedings, Election Process for Board Member Office, Etc.

<sup>5</sup> City of Phoenix Job Description: Retirement Program Administrator

<sup>6</sup> Charter §5.6

<sup>7</sup> Board Policy 122: Actuarial Experience Study (5 years)

<sup>8</sup> Board Policy 182: Actuarial Valuation Policy

<sup>9</sup> Charter §7.1

<sup>10</sup> Board Policy 10: Custody of Funds/Record Keeping/Accounting

<sup>11</sup> Charter §9.1



Finance Department is expected to maintain COPERS accounts and financial statements in coordination with COPERS staff.<sup>12</sup>

### Credited Service

The accrual of credited service is detailed in Charter and Board policy.<sup>13</sup> The Administrator implements the allocation of credited service.

### Required Board Approval

Board approval is required for the following transactions:

- **Buybacks and Purchase of Service**  
The Board will review applications for members to purchase previously forfeited COPERS' credited service, in-state and out-of-state public service covered by a public retirement plan, military service, City of Phoenix job-share service and City of Phoenix full-time temporary service.<sup>14</sup>
- **Military service credit while a Plan member**  
The Board will review applications for service credit for time spent in the uniformed services while a Plan member.<sup>15</sup>
- **Allowance of regular interest**  
The Board will adopt an interest rate on member contributions and the Pension Equalization Reserve Fund.<sup>16</sup>
- **Adoption of experience tables**  
The Board will adopt mortality and other tables of experience as are required in the operation of the Plan and for actuarial valuations.<sup>17</sup>
- **Hearings on Appeal**  
The Board will conduct appeal hearings at the request of applicants denied disability retirement benefits.<sup>18</sup> The Board will also conduct non-disability hearings.<sup>19</sup>
- **Payment of Expenses**  
The Board may authorize the payment of administrative expenses.<sup>20</sup>
- **Post retirement benefit increases**

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<sup>12</sup> Board Policy 10: Custody of Funds/Record Keeping/Accounting

<sup>13</sup> Charter §14 and Board Policy 43: Service Credits - Rounding

<sup>14</sup> Charter §13.1, Board Policy 145: Repurchasing of Credited Service due to Refund (Buybacks), Board Policy 180: Purchase of Service for In-State or Out-of-State Public Service Covered by a Public Retirement Plan (Military Service Considered Eligible), City of Phoenix Job-Share Service, City of Phoenix Full-Time Temporary Service and Board Policy 165: Service Credit for Temporary Full time Position (or Part time Position) prior to 1/1/82

<sup>15</sup> Charter §15.1 and Board Policy 52: Military – Eligibility conditions, Uniformed Services Defined

<sup>16</sup> Charter §32.1, Board Policy 2: Interest on Contributions after Termination of Employment and Board Policy 150: Interest on Member Contributions and Pension Equalization Reserve Fund

<sup>17</sup> Board Policy 105: Mortality Tables and Board Policy 155: Adoption of Actuarial Equivalency Factors

<sup>18</sup> Charter §23.2 and Board Policy 156: Hearings on Appeal - Procedures

<sup>19</sup> Board Policy 175: Non-Disability Hearings - Procedure

<sup>20</sup> Board Policy 185: Payment of Expenses

The Board may authorize the payment of post retirement benefit increases (13<sup>th</sup> check and Pension Equalization Program).<sup>21</sup>

### Delegations

The Board has approved policies delegating certain transactions and functions to the Administrator, Board Committee, staff and/or service providers:

- **Payment of Pensions and Transfers**  
The Board has authorized payment for pensions and transfers to the Arizona State Retirement System and Public Safety Personnel Retirement System, utilizing the appropriate signature authority. The Administrator will report these transactions to the Board.<sup>22</sup> The Board has delegated the distribution of pension payments to a paying agent.<sup>23</sup> The review and implementation of Domestic Relations Orders, based on Board policy, has been delegated to the Administrator.<sup>24</sup> The Board has determined, via policy, the relationships qualifying as having a presumptive insurable interest in retirees' lives. The Administrator is authorized to accept the designation of qualified individuals as potential survivors.<sup>25</sup>
- **Disability Pensions**  
The existence or continuation of a condition of total and permanent disability shall be determined by the Disability Assessment Committee.<sup>26</sup>
- **Return of Accumulated Contributions**  
The Board has delegated the responsibility to refund eligible member accumulated contributions to the Administrator, with the appropriate signature authority.<sup>27</sup> The Administrator will report these transactions to the Board.<sup>28</sup>
- **Contributions**  
The Administrator shall monitor employee and employer contributions to insure all payments are received and credited on a timely basis.<sup>29</sup>
- **Fiscal management**  
The Retirement Board may employ investment counsel and such other services as it shall from time to time deem necessary in the proper operation of the Retirement Plan.<sup>30</sup> The Board may delegate its power to purchase or sell any of the securities and investments of the Retirement Plan to a member or committee of members of the Board,

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<sup>21</sup> Charter §41, Charter §42 and Board Policy 171: Source of Consumer Price Index used in Calculation of Post-Retirement Distribution (13<sup>th</sup> Check) and Post-Retirement Benefits Equalization Program (PEP)

<sup>22</sup> Board Policy 50: Disbursement of the City of Phoenix Employees' Retirement System Trust Funds and Board Policy 30: Signatures on Vouchers

<sup>23</sup> Board Policy 101: Pension Checks Mailing Schedule

<sup>24</sup> Board Policy 153: Domestic Relations Orders (Requirements)

<sup>25</sup> Charter §24.1(d) (e) (f) and (g) and Board Policy 166: Policy on Insurable Interest for Purposes of Options A & B

<sup>26</sup> Charter §23.1, Board Policy 158: Policies of the Disability Assessment Committee and Board Policy 66: Medical Review of Disability Retirement Applicant

<sup>27</sup> Charter §26.1, Charter §26.2 and Board Policy 30: Signatures on Vouchers

<sup>28</sup> Board Policy 7: Refund of Accumulated Contributions – Executive Secretary Authorized to Approve Refunds on Behalf of the Board

<sup>29</sup> Charter §27.1, Charter §28.1 and Board Policy 23: Retirement - Contributions

<sup>30</sup> Charter §5.7

with the required signature authority.<sup>31</sup> The duties and responsibilities of the Board, Investment Committee, Administrator, Internal Investment Staff, External Investment Consultant(s), External Investment Managers, Custodian, Legal Advisor and Actuary are detailed in the Investment and Asset Allocation Policy.<sup>32</sup>

Proxy voting has been delegated to the external investment managers to be voted in the best interest of the Plan with a quarterly exception report presented to the Board.<sup>33</sup>

The management of the securities lending program has been delegated to the Plan's custodian. The Investment Staff and Investment Consultant will monitor and report the performance and structure of the program to the Board.<sup>34</sup>

The Brokerage and Directed Commission process has been delegated to the Plan's custodian and External Investment Managers, with periodic reporting to the Board.<sup>35</sup>

Securities class action litigation activities have been delegated to the Plan's custodian, with periodic reporting to the Board. At the Board's discretion, external securities litigation counsel may be required to monitor and represent the Plan in securities litigation actions.<sup>36</sup>

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<sup>31</sup> Charter §34.2 and Board Policy 30: Signatures on Vouchers

<sup>32</sup> Board Policy 154: Investment and Asset Allocation Policy

<sup>33</sup> Board Policy 157: Investment – Proxy Voting Guidelines

<sup>34</sup> Board Policy 188: Securities Lending Policy

<sup>35</sup> Board Policy 189: Brokerage and Directed Commission Policy

<sup>36</sup> Board Policy 190: Securities Class Action Policy

<b>SUBJECT</b> Fiduciary Policy	<b>POLICY NO</b> <a href="#">192</a>

Policy:

The authority and responsibility for the administration, management and operation of the Retirement Plan are vesting in the Retirement Board. The Board is the fiduciary of the Plan.

As the fiduciary of the Plan:

- The Board members are required to discharge their duties with respect to the Plan solely in the interest of Plan members and their beneficiaries for the exclusive purpose of providing benefits to members and beneficiaries.
- A Board member's loyalty must be to the Plan members and their beneficiaries.
- Board members may not show partiality to any member or beneficiary, or group of members or beneficiaries.
- Board members must make known any specific conflict of interest which could impact their ability to fulfill their fiduciary duties and refrain from voting upon or otherwise participating in the issue which presents the conflict.
- Fiduciary responsibilities may not be delegated. The Board must carefully hire, monitor and evaluate the experts they rely on. The Board's selection of experts is a fiduciary function, requiring ongoing monitoring.

Any breach of this fiduciary policy shall be referred to the Administrator and the Charter Amendments / Policies and Procedures (CAPP) Committee Chairperson. The CAPP Committee Chairperson shall investigate, as necessary, and report his/her findings to the Board together with a recommended course of action.

Board members will receive training on the topic of fiduciary duties at the "New Board Member Orientation Program" and at annual fiduciary training presented by a representative from the City Attorney's Office or other legal counsel as designated by the City Attorney and/or the Board. (See Board Policy 181: Board Training Policy)

<b>SUBJECT</b>	<b>POLICY NO</b>
Transfer to / from Arizona State Retirement System (ASRS)	<a href="#">193</a>

Policy: The retirement service credits of an employee of an Arizona charter city that is not an employer under ASRS or an employee of an employer that is under ASRS who becomes employed by the other employer jurisdiction may apply to have the employee's retirement service credits transferred to the retirement system of the new employer.

The retirement service credits of a City of Phoenix Employees' Retirement System (COPERS) employee may be transferred if both the COPERS Board and the Phoenix City Council approve the transfer.

The retirement service credits of an employee of an employer under ASRS shall not be transferred to COPERS unless both the ASRS Board and the COPERS Board approve the transfer.

The accumulated retirement contributions of an employee whose retirement service credits are transferred that are paid to the retirement system of the new employer shall not be withdrawn by the employee unless the employee's employment terminates. Any employer contributions transferred to COPERS through a service transfer transaction (i.e., not a service purchase rollover but a transfer of service credit under this policy) may not be withdrawn by the employee at any time.

The retirement system to which the employee is transferring shall not apply service credits to the employee's account until such time as complete payment is made to the retirement system to which the employee is transferring. On completion of the transfer the employee's rights in the retirement system from which the employee is transferring are extinguished.

An active COPERS member who chooses to apply to transfer service credit from ASRS must submit a written request to COPERS and pay an application fee of \$95.00, via check or money order, payable to the City of Phoenix Employees' Retirement System.

The prior System calculates the actuarial present value (APV) of the employee's projected benefits to the extent funded on a market value basis as of the most recently adopted actuarial valuation.

The System to which the employee is transferring calculates the increase in APV of the projected benefits as a result of the transfer. Per COPERS Board Policy 180 (Purchase of Service), the calculation shall be based on the full actuarial cost of providing COPERS benefits for the period of service being transferred. The full actuarial calculation shall be determined by employing the COPERS actuarial assumptions in effect at the time of the member's application and the member's last twelve (12) months of retirement applicable salary. If less than twelve (12) months' salary history exists, the salary will be annualized using at least two full pay periods.

The two systems then determine, according to procedures established in statute, the amounts that will be transferred. Because the value of the service may be greater with a prior system, the member may be required to pay an additional amount to transfer the full amount of credited service earned.

If the current system's APV calculation is greater than the prior system's market value APV calculation, the current system will request the greater of the prior system's market value APV or member's account balance to be transferred.

If the current system's APV calculation is less than or equal to the prior system's market value APV calculation, the current system will request the greater of the current system's APV calculation or member's account balance to be transferred.

Because it is frequently beneficial for ASRS transferees into COPERS to use their ASRS employee and employer contributions to purchase COPERS service rather than transfer their ASRS service to COPERS, COPERS staff will review this possibility with ASRS transferees and provide them a copy of this policy before the member makes the final decision to transfer their ASRS service to COPERS.

Upon COPERS Board approval, the COPERS member will have sixty (60) days to finalize the transfer process and complete the purchase (if desired) or begin a payroll deduction plan. The calculations prepared for the member shall expire sixty (60) days after the COPERS Board approval. If the member does not finalize the transfer or initiate a payroll deduction plan within sixty (60) days, or the member wishes to purchase a different amount of service from that which was included in the initial cost calculation, a new application and fee must be submitted and the cost must be recalculated using current actuarial assumptions and salary history.

If an employee chooses to proceed with the transfer the actuarial cost will be offset by the amount transferred from the prior System. If the amount transferred is not sufficient to cover the total to transfer all of the available service credit, the member shall either elect to pay the difference in order to receive all service credit earned under the prior System or elect to accept a reduced transfer of service credit.

<b>SUBJECT</b> Investment Income Not Subject to Unrelated Business Income Taxes ("UBIT")	<b>POLICY NO.</b> <a href="#">194</a>	<b>CODED NO.</b>
<b>BRIEF SUMMARY</b>  Plan is governmental entity exempt from taxation under UBIT rules	<b>BOARD ACTION DATE</b> 04/19/12	<b>REFERENCE / SOURCE</b>

Policy: Pursuant to Section 34 of the City of Phoenix Employees' Retirement Law of 1953 (the "Charter") the City of Phoenix Employees' Retirement Board (the "Board") serves as the trustee of the Retirement Plan assets and handles the investment of the Retirement Plan assets. The investment income earned serves to reduce the contribution obligations of the City of Phoenix and thus inures to the benefit of both the Retirement Plan and the City.

In the management of Retirement Plan investments, the Board takes the position that the Retirement Plan is exempt from the unrelated business income tax ("UBIT") rules of the Internal Revenue Code. The Retirement Plan's good faith exemption from the UBIT rules is based on the Retirement Plan's status as an integral part of the City of Phoenix and the essential governmental functions performed by the Retirement Plan. The Board also bases its good faith determination regarding the UBIT exemption on the moratorium on governmental retirement plan taxation, as announced by the Internal Revenue Service in News Release IR-1869.

Authority:

Recommended by the Legal Review Committee 03/28/12  
Adopted by the Retirement Board 04/19/12

<b>SUBJECT</b> Acknowledgement of City of Phoenix Regulation Regarding Pensionable Nature of Sick Leave Payout at Retirement	<b>POLICY NO.</b> <a href="#">195</a>	<b>CODED NO.</b>
<b>BRIEF SUMMARY</b>	<b>BOARD ACTION DATE</b> May 17, 2012	<b>REFERENCE / SOURCE</b> City of Phoenix Administrative Regulation Number 2.441 as amended effective July 8, 2012

Policy: The Retirement Board acknowledges the City of Phoenix regulation regarding the pensionable nature of sick leave payouts at retirement.

For employee members as of June 30, 2012:

Per City of Phoenix Administrative Regulation (A.R.) Number 2.441 the number of sick leave hours eligible to be cashed out and included in an employee's final average compensation upon retirement will be limited to the number of accrued and unused sick leave hours in the employee's leave bank on July 1, 2012, provided any applicable criteria are met per A.R. Number 2.441 as amended effective July 8, 2012.

For employee members hired or rehired on or after July 1, 2012:

Any payment for accrued and unused sick leave hours eligible to be cashed out as a lump sum upon retirement will not be included in an employee's final average compensation per A.R. Number 2.441 as amended effective July 8, 2012.

Recommended by the Charter Amendments / Policies & Procedures Committee May 17, 2012.

Approved by the Retirement Board May 17, 2012.



<b>SUBJECT</b> Unreceived Pension Checks	<b>POLICY NO</b> <u>196</u>	<b>CODED NO.</b>
<b>BRIEF SUMMARY</b>	<b>BOARD ACTION DATE</b> 05/17/12	<b>REFERENCE / SOURCE</b>

Policy: The City of Phoenix Employees' Retirement System authorizes monthly pension payments by either standard, regular U.S. Mail, or through electronic direct deposit instructions to pension recipients. It shall be Board policy that regardless of type of payment preferred, a pensioner shall submit either written instructions authorizing payment (as required under Board Policy 128), or through instructions received through the City's eCHRIS system (as allowed under revised Board Policy 124).

Direct deposit shall be the encouraged and preferred method of payment for pensioners, a method aimed at reducing the likelihood of returned or unreceived pension checks.

It shall be the policy for retirement staff to follow the following guidelines pertaining to the issuance (mailing) of pension checks (those that do not select direct deposit):

- Requests for affidavits for replacement warrants (unreceived, mailed pension checks) will not be sent to pension recipients until seven (7) mailing days have elapsed since issuance.
- If a pension recipient has not received his/her pension check after seven (7) mailing days have elapsed since issuance, and the check has not been returned back to payroll, COPERS' staff will mail out the affidavit for replacement warrant based on a pensioner's verbal or written request. Pensioners may also visit the Retirement office to sign the affidavit after seven (7) mailing days have elapsed.
- Upon request of an affidavit, COPERS' staff will initiate a stop payment through Payroll of the unreceived pension check, and start the process of replacing the unreceived pension check.
- Upon receipt of a completed and notarized affidavit, COPERS' staff will send over the completed information along with a request for a replacement check to the City's payroll department for proper replacement check payment instructions, either by mailing the replacement check or making it available for pick-up at City offices (Payroll or Retirement).

Authority:

Recommended by the Charter Amendments/Policies & Procedures Committee – 05/17/12.

Adopted by the Board – 05/17/12.

<b>SUBJECT</b> IRC Compliance Policies	<b>POLICY NO</b> <u>197</u>	<b>CODED NO.</b>
<b>BRIEF SUMMARY</b>  Policies identified as necessary to comply with IRC requirements to obtain a favorable determination letter.	<b>BOARD ACTION DATE</b> 11/19/15	<b>REFERENCE / SOURCE</b>

City Of Phoenix Employees' Retirement System

POLICIES OF THE CITY OF PHOENIX EMPLOYEES' RETIREMENT SYSTEM TO ACHIEVE COMPLIANCE WITH THE INTERNAL REVENUE CODE

**Section 1. Purpose of these Policies**

(a) The City of Phoenix Employees' Retirement System ("COPERS") is established as a qualified, defined benefit public pension plan ("Plan") under the Charter Chapter XXIV Phoenix City Employees' Retirement Law of 1953 ("Charter") (originally established under repealed Phoenix City Employees' Retirement System Law of 1945 (the "Former System")), including § 43.1, as amended from time to time, pursuant to sections 401(a) and 414(d) of the Internal Revenue Code ("Code") or such other provision of the Code as applicable and applicable Treasury regulations and other guidance.

(b) Charter § 43.2 authorizes the Retirement Board ("Board") to adopt policies which are appropriate or necessary to maintain the qualified status of the Plan in accordance with the Code and applicable Treasury Regulations promulgated thereunder.

(c) These Policies are established in accordance with Charter §§ 43.1 and 43.2 to establish Policies to administer the Plan consistent with the Code and with the Board's role as fiduciaries of the Plan. These Policies augment the Charter and, to the extent applicable, the Constitution of the State of Arizona. However, these Policies do not amend, modify or replace the Charter and nothing in these Policies should be construed or interpreted in a manner inconsistent with the protections afforded to COPERS' members under the Constitution of the State of Arizona. Furthermore, these Policies are subordinate to the Charter and, to the extent that they are inconsistent with or contradict any provisions contained within the Charter, the terms of the Charter control.

Finally, the Board reserves the right to amend, modify, suspend or terminate one or more of these Policies, or may waive a Policy in a particular instance, provided the Board does not thereby violate any terms of the Code, the Charter or the Constitution of the State of Arizona or other terms of the Plan. Nothing in these Policies or any other Policy, rule, regulation or practice adopted by the Board is intended to create any new or additional public retirement system benefit beyond those Plan benefits already set forth in the terms of the Charter.

(d) To ensure compliance with the Code, and to comply with the requirement to provide definitely determinable benefits, any Policy identified as part of the Plan may not be waived without a showing of administrative error, estoppel or other sufficient grounds that will satisfy the qualification requirements of Code § 401.

**Section 2. Definitions**

(a) All references to the "Internal Revenue Code" or "Code" mean the Internal Revenue Code of 1986, as amended.

(b) The "Plan Year" is the fiscal year commencing July 1.

(c) For 415 testing purposes, the "Limitation Year" is the calendar year.

**Section 3. Compliance with Code § 401(a)(2) for exclusive benefit and nondiversion of trust funds:**

(a) In accordance with Charter § 43.1, the assets of the plan shall never inure to the benefit of an employer and shall be held for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan.

(b) The trust fund must not revert, and no contributions shall be permitted to be returned, to the employers, except due to a mistake of fact or law as permitted by Code § 401(a)(2) and Revenue Ruling 91-4.

**Section 4. Compliance with Code §§ 401(a)(7) and 401(a)(8) for vesting and forfeitures:**

(a) In accordance with Charter § 17, a member shall be 100% vested in his or her service retirement benefit upon attaining the normal retirement age of: (i) sixty (60) with at least ten (10) years of service; or (ii) sixty-two (62) with at least five (5) years of service. Any Tier I Member whose age and years of service equal 80 or more is vested in his or her service retirement. Any Tier II [or Tier III] Member whose age and years of service equal 87 or more is vested in his or her service retirement. Finally, any member in the Former System is vested in his or her service retirement in accordance with Charter § 17.2.

(b) A member who shall leave the service of the employer before reaching normal retirement age but after completing at least five (5) years of service shall have a vested right to accrued benefits from the Plan.

(c) In accordance with Charter § 26, a member shall be 100% vested in his or her accumulated contributions at all times.

(d) 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.

(e) In conformity with Code § 401(a)(8), any forfeitures of benefits by members or former members of the plan shall not be used to pay benefit increases. However, such forfeitures shall be used to reduce employer contributions.

**Section 5. Compliance with Code § 401(a)(9) for Required Minimum Distributions:**

In accordance with Charter § 43.2, COPERS shall pay all benefits in accordance with a good faith interpretation of the requirements of Code § 401(a)(9) and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Code § 414(d). COPERS is subject to the following provisions:

(a) Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age 70 1/2 or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this Policy in the form provided in Charter § 19.

(b) The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

(c) Pursuant to a qualified domestic relations order, COPERS may establish separate benefits for a member and nonmember.

(d) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.

(e) If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be distributed within five (5) years of his death, unless it is to be distributed in accordance with the following Policies:

(1) If the member's surviving spouse is the sole designated beneficiary, the member's remaining interest in the Plan is distributed or begins to be distributed by December 31 of the calendar year immediately following the calendar year in which the member died or by December 31 of the calendar year in which the member would have attained age 70 1/2, if later, and if the surviving spouse dies before the distribution to the surviving spouse begins, this section shall be applied as if the surviving spouse were the Plan member; or

(2) If the member's surviving spouse is not the sole designated beneficiary, the member's remaining interest is to be distributed over the life of the designated beneficiary or over a period not extending beyond the life expectancy of the designated beneficiary; and such distribution begins no later than December 31 of the calendar year immediately following the calendar year of the member's death.

(f) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Code § 401(a)(9)(G) and the minimum distribution incidental benefit rule under Treasury Regulation § 1.401(a)(9)-6, Q&A-2.

(g) The death and disability benefits provided by COPERS are limited by the incidental benefit rule set forth in Code § 401(a)(9)(G) and Treasury Regulation § 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the members' benefits received from COPERS.

(h) Notwithstanding the other provisions of this Policy or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Code § 401(a)(9) based on a reasonable and good faith interpretation of that section.

## **Section 6. Compliance with Code § 401(a)(17) for the Limitation on Compensation**

(a) This Policy is in accordance with Charter §§ 2.14 and 43.2.

(b) Compliance with Code § 401(a)(17) applies notwithstanding anything in this Section or in any other law to the contrary; "compensation" does not include compensation that exceeds the maximum dollar limitation imposed by Code § 401(a)(17) (as adjusted for cost-of-living increases in accordance with Code § 401(a)(17)(B)).

(c) Effective with respect to Plan Years beginning on and after January 1, 1996, and before January 1, 2002, the annual compensation of a plan member which exceeds \$150,000 (as adjusted for cost-of-living increases under Code § 401(a)(17)(B)) shall be disregarded for purposes of computing employee and employer contributions to or benefits due from the retirement system. Effective only for the 1996 plan year, in determining the compensation of an employee eligible for consideration under this provision, the rules of Code § 414(q)(6) shall apply, except that in applying such rules, the term "family" shall include only the spouse of the member and any lineal descendants of the employee who have not attained age 19 before the close of the year.

(d) Effective with respect to Plan Years beginning on and after January 1, 2002, the annual compensation of a Plan member which exceeds \$200,000 (as adjusted for cost-of-living increases in accordance with Code § 401(a)(17)(B)) may not be taken into account in determining benefits or contributions due for any Plan Year. Annual compensation means compensation during the plan year or such other consecutive 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. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a Plan member's contributions or benefits for the current Plan Year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

(e) As used in this paragraph (c), the term "eligible member" means a person who first became a member of COPERS prior to the Plan Year beginning after December 31, 1995. Pursuant to § 13212(d)(3)(A) of the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93"), and the regulations issued under that section, eligible members are not subject to the limits of Code § 401(a)(17) and this Section 6, and the annual compensation limit shall not apply to the extent that the application of the limit would reduce the amount of compensation that is allowed to be taken into account under COPERS below the amount that was allowed to be taken into account under the retirement system as in effect on July 1, 1993. The limits referenced in subsections (a) and (b) above apply only to years beginning after December 31, 1995, and only to individuals who first become Plan members in Plan Years beginning on and after January 1, 1996.

#### **Section 7. Compliance with Code § 401(a)(24) and Rev. Rul. 2011-1 for group trust participation**

(a) The Board may, unless restricted by law, transfer all or any portion of the Plan's assets to a collective or common group trust, as permitted under Revenue Ruling 81-100 and Revenue Ruling 2011-1 (or subsequent guidance), that is operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code § 401(a), individual retirement accounts that are exempt under Code § 408(e), eligible governmental plans that meet the requirements of Code § 457(b), and governmental plans under Code § 401(a)(24). For this purpose, a trust includes a custodial account that is treated as a trust under Code § 401(f) or under Code § 457(g)(3).

(b) Any collective or common group trust to which assets of the Plan are transferred pursuant to subsection (a) above shall be adopted by the Board as part of the Plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.

(c) The separate account maintained by the group trust for the Plan pursuant to subsection (a) above shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the Plan.

(d) For purposes of valuation, the value of the separate account maintained by the group trust for the Plan shall be the fair market value of the portion of the group trust held for the Plan, determined in accordance with generally recognized valuation procedures.

#### **Section 8. Compliance with Code Section 401(a)(25) for Actuarial Assumptions**

In accordance with Charter §§ 10.1 and 43.3, effective as of July 1, 1989, the Board shall determine the amount of any benefit that is determined on the basis of actuarial assumptions using assumptions adopted by the Board and set forth in Charter § 10.1, as amended by Board Policy No. 155, which shall be updated by the Board from time to time as necessary and maintained in the offices of the Executive Secretary to the Board; such benefits shall not be subject to employer discretion. For these purposes, Policy No. 155, is incorporated into the City of Phoenix Employees' Retirement Law of 1953 as part of the plan document.

#### **Section 9. Compliance with Code § 401(a)(31) for Eligible Rollover Distributions**

For purposes of Charter § 43.2 and compliance with Code § 401(a)(31), this section applies notwithstanding any contrary provision or retirement law that would otherwise limit a distributee's election to make a rollover. 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.

(a) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(1) *any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or the 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 years or more;*

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

(3) *the portion of any distribution that is not includible in gross income; provided, however, effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income, but such portion may be transferred only:*

(A) to an individual retirement account or annuity described in Code § 408(a) or (b) or to a qualified defined contribution plan described in Code § 401(a) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

(B) on or after January 1, 2007, to a qualified defined benefit plan described in Code § 401(a) or to an annuity contract described in Code § 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

(C) on or after January 1, 2008, to a Roth IRA described in Code § 408A; and

(4) *any other distribution which the Internal Revenue Service does not consider eligible for rollover treatment, such as certain corrective distributions necessary to comply with the provisions of Code § 415 or any distribution that is reasonably expected to total less than \$200 during the year.*

Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code § 414(p).

(b) "Eligible Retirement Plan" means any of the following that accepts the distributee's eligible rollover distribution:

(1) *an individual retirement account described in Code § 408(a),*

(2) *an individual retirement annuity described in Code § 408(b),*

(3) *an annuity plan described in Code § 403(a),*

(4) *a qualified trust described in Code § 401(a),*

(5) *effective January 1, 2002, an annuity contract described in Code § 403(b),*

(6) *effective January 1, 2002, a plan eligible under Code § 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system, or*

(7) *effective January 1, 2008, a Roth IRA described in Code § 408A.*

(c) "Distributee" means an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code § 414(p). Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Code § 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover 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.

(d) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

#### **Section 10. Compliance with Code § 401(a)(31)(B)**

If, on or after March 28, 2005, COPERS provides for mandatory distribution of eligible rollover distributions, as defined in Code § 402(F)(2)(A), with a present value greater than One

Thousand Dollars (\$1,000), and if a member does not elect to have such distribution paid directly to an Eligible Retirement Plan specified by member in a direct rollover or to receive the distribution directly, then COPERS shall pay the distribution in a direct rollover to an individual retirement plan designated by the board of trustees in accordance with Code § 401(a)(31)(B) and IRS Notice 2005-5.

#### **Section 11. Compliance with Code § 401(a)(37) and the HEART Act**

(a) 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 § 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. In any event, a deceased member's period of qualified military service must be counted for vesting purposes.

(b) Effective with respect to deaths and/or disabilities 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 permitted by Code § 414(u)(9), for benefit accrual purposes and in the case of death, for vesting purposes, the member shall be treated as having earned years of service for the period of qualified military service, having returned to employment on the day before the death and/or disability, and then having terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(c) Beginning January 1, 2009, to the extent required by Code § 414(u)(12), an individual receiving differential wage payments (as defined under Code § 3401(h)(2)) 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 § 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

#### **Section 12. Compliance with Code § 414(p) for Qualified Domestic Relations Orders**

If benefits are payable pursuant to a qualified domestic relations order that meets the requirements of a domestic relations order as defined in Code § 414(p), then the applicable requirements of Code § 414(p) shall be followed by the retirement system.

#### **Section 13. Compliance with Code § 414(u) for Reemployed Veterans**

Effective December 12, 1994, notwithstanding any other provision of the retirement system law, contributions, benefits and service credit with respect to qualified military service shall not be less than those required by Code § 414(u) and the Uniformed Services Employment and Reemployment Rights Act of 1994.

#### **Section 14. Compliance with Code § 415 Limitations on Contributions and Benefits**

Notwithstanding any other provisions of COPERS to the contrary, the member contributions paid to and retirement benefits paid from the Plan shall be limited to such extent as may be necessary to conform to the requirements of Code § 415 for a qualified pension plan.

(a) *Participation in Other Qualified Plans: Aggregation of Limits.*

(1) 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 § 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 (1) plan.

(2) 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 § 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 (1) plan.

(b) *Basic 415(b) Limitation.*

(1) On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Code § 415(b)(1)(A), subject to the applicable adjustments in Code § 415(b) and subject to any additional limits that may be specified by COPERS. In no event shall a member's annual benefit payable under the Plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code § 415(d) and the regulations thereunder.

(2) For purposes of Code § 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 § 415(n)) and to rollover contributions (as defined in Code § 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(c) *Adjustments to Basic 415(b) Limitation for Form of Benefit.*

If the benefit under the Plan is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, determined pursuant to 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 § 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 § 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit in subsections (d)(2) and (d)(3).

(2) For a benefit paid in a form to which Code § 417(e)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

(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) 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 (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation § 1.417(e)-1(d)(2), and (ii) for years after December 31, 2008, the applicable mortality tables described in Code § 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Code § 417(e)(3)(B)); or

(3) For a benefit paid in a form to which Code § 417(e)(3) applies (generally, a lump sum

benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

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

(B) 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 (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation § 1.417(e)-1(d)(2), and (ii) for years after December 31, 2008, the applicable mortality tables described in Code § 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Code § 417(e)(3)(B)); 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 § 1.417(e)-1(d)(3) using the rate in effect for the month prior to the beginning of the plan year with a one-year stabilization period and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation § 1.417(e)-1(d)(2), and (ii) for years after December 31, 2008, the applicable mortality tables described in Code § 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Code § 417(e)(3)(B)), divided by 1.05.

(4) *The 415(b) limit at the annuity starting date shall be adjusted in accordance with the above subsections (2) and (3).*

(d) *Benefits For Which No Adjustment of the 415(b) Limit is Required.*

For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) Survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity;

(3) Any other benefit not required under Code § 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Code § 415(b)(1).

(e) *Other Adjustments in 415(b) Limitation.*

(1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section for the member's annuity starting date shall be equal to the lesser of (i) the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the one hundred sixty thousand dollar (\$160,000) annual limit (as adjusted under Code § 415(d) and, if required, under subsection (g) for years of participation less than ten (10)), with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for the annuity starting date as defined in the Plan (expressing the member's age based on completed calendar months as of the annuity starting date), and (ii) the one hundred sixty thousand dollar (\$160,000)

annual limit (as adjusted under Code § 415(d) and, if required, under subsection (g) for years of participation less than ten (10)) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this section.

(2) In the event the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments provided for in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(f) *Less than Ten (10) Years of Participation or Service Adjustment for 415(b) Limitations.*

The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation shall be the amount determined under subsection (c), as adjusted under subsection (d) and/or (f), multiplied by a fraction, the numerator of which is the number of the member's years of participation and the denominator of which is ten (10). The limit under subsection (h) (concerning the \$10,000 limit) shall be similarly reduced for any member who has accrued less than ten (10) years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) *Ten Thousand Dollar (\$10,000) Limit.*

Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under this Plan and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified defined contribution plan in which the member participated. For purposes of this determination, the retirement benefit payable is not adjusted for form of benefit or commencement date.

(h) *Effect of COLA on 415(b) Testing.*

Effective on and after January 1, 2009, for purposes of applying the limits under Code § 415(b) (the "Limit") to a member with no lump sum benefit, the following shall apply:

(1) a member's applicable Limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under Charter §§ 19.3, 19.6, 40.1;

(2) to the extent that the member's annual benefit equals or exceeds the Limit, the member shall 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 Charter §§ 19.3, 19.6, 40.1, shall be tested under the then applicable benefit Limit including any adjustment to the Code § 415(b)(1)(A) dollar limit under Code

§ 415(d), and the regulations thereunder.

(i) *Section 415(c) limitations on contributions and other additions.*

After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to Code § 415(d)) or 100% of the member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer and member contributions to a defined contribution plan, post-tax member contributions to a defined benefit plan (except for purposes of service purchases, if tested under the modified limit of Code § 415(b)), and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and member contributions picked up under Code § 414(h) that are paid to a defined benefit plan.

(2) For purposes of applying Code § 415(c) and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation § 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Code § 414(h) shall not be treated as compensation.

(3) Compensation shall be defined as wages within the meaning of Code § 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code §§ 6041(d), 6051(a)(3) and 6052 and shall be determined without regard to any rules under Code § 3401(a) 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 § 3401(a)(2)).

(A) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation but for an election under Code §§ 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Code § 132(f)(4).

(B) 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:

(I) 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; or

(II) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued; or

(III) the payment is pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the member at the same time if the member had continued employment with the employer and only

to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) 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 § 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 or deemed compensation to the individual if permanently and totally disabled (as defined in Code § 22(e)(3)).

An employee who is in qualified military service (within the meaning of Code § 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 (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation § 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.

(4) If the annual additions for any member for a plan year exceed the limitation under Code § 415(c), the excess annual addition shall be corrected as permitted under the Employee Plans Compliance Resolution System (Revenue Procedure 2013-12, or similar IRS correction program).

(5) *A member's compensation for purposes of this subsection (j) shall not exceed the annual limit under Code § 401(a)(17) for the limitation year.*

(j) *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 the Plan, then in order to meet the requirements of Code § 415(n) either:

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

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

(3) For purposes of applying this section, COPERS shall not fail to meet the reduced limit under Code § 415(b)(2)(C) solely by reason of this subsection and shall not fail to meet the percentage limitation under Code § 415(c)(1)(B) solely by reason of this subsection.

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

- (A) recognized by COPERS for purposes of calculating a member's benefit under COPERS,
- (B) which such member has not received under COPERS, and
- (C) which such member may receive only by making a voluntary additional contribution, in an amount determined under COPERS, 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 COPERS.

(5) *For purposes of determining permissive service credit—*

- (A) no more than five years of nonqualified service credit can be taken into account, and
- (B) no nonqualified service credit is taken into account before the member has at least five years of participation under COPERS.

(6) For purposes of paragraph (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 § 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 § 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 § 414(u)) recognized by the system.

In the case of service described in clause (A), (B), or (C), such service shall 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 § 403(b)(13)(A) or Code § 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

- (A) the limitations of paragraph (5) shall 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 the system shall apply to such amounts and any benefits attributable to such amounts.

(8) For an eligible member, the limitation of Code § 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 paragraph an eligible member is an individual who first became a member in COPERS before January 1, 1998.

(k) *Modification of Contributions for 415(c) and 415(n) Purposes.*

Notwithstanding any other provision of law to the contrary, COPERS may modify a request by a member to make a contribution to COPERS if the amount of the contribution would exceed the limits provided in Code § 415 by using the following methods:

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

(2) If payment pursuant to subparagraph (1) shall not avoid a contribution in excess of the limits imposed by Code §§ 415(c) or 415(n), COPERS may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

(l) *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 COPERS shall not be taken into account for purposes of Code § 415, in accordance with applicable Treasury Regulations.

(m) *Reduction of Benefits Priority.*

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

**Section 15. Compliance with Code § 503(b) for Prohibited Transactions.**

Effective as of July 1, 1989, the Board may not engage in a transaction prohibited by Code § 503(b).

**Section 16. Compliance with Rev. Ruls. 2009-31 and 2009-32 for Leave Conversions.**

Leave conversions shall be permitted for application towards the accrual of the plan's normal retirement benefit during each plan year of a member's employment with an employer and/or only in the Plan Year in which the member terminates employment; notwithstanding the foregoing, leave conversions shall be permitted only if (i) the leave is for unused accrued paid time off for vacation and/or sick leave or for comparable paid-time-off under an established leave policy without regard to whether the leave is due to illness or incapacity, (ii) the leave policy qualifies as a bona fide sick and/or vacation leave plan for purposes of Code § 409A and Treasury Regulation § 1.409A-1(a)(5), (iii) the Plan provides for service credit for a member's unused paid time off, provided that the eligibility requirements for participation in the Plan do not permit an employee to become a member only in the Plan Year in which the member terminates employment, (iv) the conversion is automatic and the member has no right to request a cash payment, (v) the unused paid time off is converted to service credit under a specified formula which satisfies the definitely determinable standard of Treasury Regulation § 1.401-1(b)(1)(i), (vi) the Plan otherwise provides for service credit unrelated to the conversion of any member's unused paid time off, and (vii) the member's annual benefit, as adjusted by the leave conversion, does not exceed the limit under Code § 415(b).

Authority:

Adopted by the Retirement Board November 19, 2015.



<b>SUBJECT</b> Tier 3 Interpretation and Implementation	<b>POLICY NO</b> <u>198</u>	<b>CODED NO.</b>
<b>BRIEF SUMMARY</b> The intent of Proposition 103 was to restrict both benefits and contributions to those possible using an annual compensation maximum of \$125,000 as indexed for inflation.	<b>BOARD ACTION DATE</b> 10/15/15	<b>REFERENCE / SOURCE</b> Proposition 103, 2015 Election

Policy:

1. The Board closely monitored the activities that resulted in the City Council approving the language of Proposition 103 for the 2015 general election. The City Manager delegate to the Board and the Board's Retirement Program Administrator had significant roles in crafting the Tier 3 retirement plan enacted by the passage of Proposition 103. As such, the Board is aware of the City Council's intent in setting the maximum annual compensation limit that is applicable to Tier 3, not only in the determination of final average compensation for benefit purposes but also compensation that is subject to both employee and employer contributions. The Board recognizes that the final language of Proposition 103 was not as clear as the City Council's intent, and has approved this policy as an interpretation of the provisions within that language that are unclear. This Policy is intended to strictly comply with the City Council's intent as understood by the Board.
2. For purposes of this policy, "Annual Compensation Limit" means the \$125,000 limit imposed by section 2.14 of Chapter XXIV, Part II of the Charter of the City of Phoenix, as indexed for inflation.
3. In no event shall a Tier 3 member's final average compensation exceed the Annual Compensation Limit.
4. Tier 3 employer and employee contribution amounts determined by section 28.1(b)(2) of Chapter XXIV, Part II of the Charter of the City of Phoenix are only imposed on a member's annual compensation up to the Annual Compensation Limit. Any Tier 3 member annual compensation above the Annual Compensation Limit is not subject to either employer or employee contributions to COPERS.
5. Workmen's compensation payments to a Tier 3 member will be considered in determining whether that member has reached the Annual Compensation Limit.

Authority:

Recommended by Charter Amendments/Policies & Procedures Committee on September 18, 2015.

Adopted by the Retirement Board October 15, 2015.